

CEMETERY OVERSIGHT TASK FORCE MEETING

Thursday, September 10, 2009

2:00 p.m.

Held at: Thompson Center

Chicago, Illinois

1 CEMETERY TASK FORCE COMMITTEE:

2 HONORABLE PATRICIA BROWN HOLMES,

3 Chairperson

4 DR. BYRON BRAZIER,

Apostolic Church of God

5

MR. AUGUSTUS CAGE,

6 Cage Memorial Chapels

7 MR. WILLIE CARTER,

Restvale Cemetery

8

MR. LESTER CONEY,

9 Mesirow Financial

10 MR. MICHAEL KOTZIN,

Jewish United Fund and The Jewish

11 Federation of Metropolitan Chicago

12 MR. WILLIAM McNARY,

Citizen Action Illinois

13

MR. DALITSO SULAMOYO,

14 Illinois Community Action Association

15 MS. ANDREA ZOPP,

Exelon Corporation

16

SENATOR EMIL JONES, III,

17 14th Senate District of Illinois

18 SENATOR RANDY HULTGREN,

48th Senate District of Illinois

19

REPRESENTATIVE DAN BRADY,

20 88th House District of Illinois.

21 REPRESENTATIVE MONIQUE DAVIS,

27th House District of Illinois.

22

REPRESENTATIVE KEN DUNKIN ,

23 5th House District of Illinois.

24

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1 HONORABLE HOLMES: Good afternoon, everyone.
2 Welcome to the fifth meeting of the Cemetery
3 Oversight Task Force.

4 My name is Patricia Brown Holmes, and I
5 am honored to have been appointed chair of this
6 task force by Governor Pat Quinn. As many of you
7 know, I'm a partner at the law firm, Schiff
8 Hardin, and was previously a judge on the Circuit
9 Court of Cook County as well as a former federal,
10 state, and local prosecutor.

11 I'd like to introduce the members of our
12 task force in alphabetical order beginning with
13 our Secretary of the Department of Financial and
14 Professional Regulation, Secretary Brent Adams.

15 We have task force member, Damon Arnold,
16 who is the Director of the State's Department of
17 Public Health.

18 Dr. Byron Brazier, who is the Pastor of
19 Apostolic Church of God.

20 Mr. Augustus Cage, who is the President
21 and Director of Cage Memorial Chapels.

22 Mr. Willie Carter, who is the owner of
23 Restvale Cemetery in Alsip, Illinois.

24 Mr. Lester Coney, who is the Executive

1 Vice President of Mesirow Financial.

2 Mr. Michael Kotzin, who is the Executive
3 Vice President of the Jewish United Fund and the
4 Jewish Federation of Metropolitan Chicago.

5 Member William McNary, who is the
6 Codirector of Citizen Action Illinois and
7 President of U.S. Action.

8 Member Dalitso Sulamoyo, who is the
9 President and CEO of the Illinois Community Action
10 Association.

11 Ms. Andrea Zopp, who is Vice President
12 and General Counsel of the Exelon Corporation.

13 We have several legislative ombudspersons
14 to our task force.

15 Appointed by the President of the Senate
16 is Senator Emil Jones, III, representing the
17 14th Senate District of Illinois.

18 Appointed by the Senate Minority Leader
19 is Senator Randy Hultgren, representing the 48th
20 Senate District of Illinois.

21 Appointed by the minority -- House
22 Minority Leader, Representative Dan Brady, who
23 represents the 88th House District of Illinois.

24 Representative Monique Davis, who

1 represents the 27th House District of Illinois.

2 And Representative Ken Dunkin, who
3 represents the 5th House District of Illinois.

4 On July 16th, Governor Quinn signed
5 Executive Order 16 which formed this task force.
6 This task force was formed in the wake of the
7 recent tragic events at Burr Oak Cemetery which
8 have highlighted a deficiency in our current
9 mechanisms for regulating and overseeing the
10 operation and management of cemeteries.

11 Our mission is to, by September 15th of
12 this year, conduct a comprehensive review of
13 Illinois' present structural arrangement for
14 regulating cemeteries and the circumstances
15 surrounding the recent tragic events at Burr Oak
16 Cemetery.

17 Our second responsibility is to submit a
18 report of our findings to the Governor and to the
19 Secretary of the Department of Financial and
20 Professional Regulations. The report will provide
21 detailed recommendations on policies, laws, rules
22 and regulations that should be implemented to
23 ensure that the deceased are cared for in a humane
24 and respectful manner.

1 This will be our fifth and final group
2 meeting. Our next meeting is scheduled for
3 September 15th at 12:30 when we will issue our
4 report. That time -- the date is firm; the time
5 is tentative. If it changes, we will post the
6 changed time on the web site at
7 www.cemeterytaskforce.illinois.gov.

8 We will begin calling witnesses to
9 testify today. We will call them in the order of
10 advance notice, those individuals who have
11 indicated their intent to testify being called
12 first followed, if there is time, by individuals
13 who have indicated a willingness to testify on
14 today's date.

15 Our order of testimony will be as
16 follows: First, our Illinois Attorney General,
17 Lisa Madigan. Next, our Illinois Comptroller, Dan
18 Hynes. Next, Sonja Washington, a public consumer.
19 Followed by Robert Gilligan and Father Pat Pollard
20 of Catholic Cemeteries. Followed by Vickie Hand
21 and Harvey Lapin of Illinois Cemetery & Funeral
22 Home Association, and then other interested
23 parties as time permits.

24 We will begin by calling our first

1 witness, our Illinois Attorney General, Lisa
2 Madigan.

3 Thank you so much for agreeing to
4 testify.

5 ATTORNEY GENERAL MADIGAN: I can carry on?

6 HONORABLE HOLMES: You can carry on. But we
7 first ask that you state your name and spell it
8 for our court reporter.

9 ATTORNEY GENERAL MADIGAN: I'd be happy to do
10 so.

11 HONORABLE HOLMES: Thank you.

12 ATTORNEY GENERAL MADIGAN: My name is Lisa
13 Madigan, L-I-S-A, M-A-D-I-G-A-N, and I am the
14 Illinois Attorney General.

15 Let me thank the task force for inviting
16 me to testify here today. As all of us are
17 painfully aware, what took place at Burr Oak
18 Cemetery is a complete and total tragedy.

19 When we lose a loved one, we should be
20 able to rely on the services provided by funeral
21 homes and cemeteries to provide us with comfort
22 and with peace of mind. But with the tragedy that
23 occurred at Burr Oak, not only did all of the
24 families have to go through this tragedy, but they

1 lost that peace of mind. They were violated.
2 There was a terrible sense of loss, and they will
3 now have to deal with all of this in the
4 aftermath.

5 We can't allow this to happen again,
6 which is why I'm very happy, not only that I've
7 been asked to testify, but that all of you have
8 been willing to make the time and to make the
9 effort to listen to what those of us who see some
10 of the problems can give you some suggestions as
11 to what we can do in the future. So your work to
12 review the cemetery and funeral industry in
13 Illinois and to propose reforms to protect all of
14 our families is absolutely critical.

15 I know that you have a very full agenda
16 today, and you've already heard testimony from a
17 lot of witnesses, so it is my intent to be brief.

18 As you probably know, my office responded
19 to the tragic events at Burr Oak Cemetery by
20 filing a lawsuit on behalf of the People of the
21 State of Illinois and the Comptroller of the State
22 of Illinois. That lawsuit was filed against the
23 corporate owners of Burr Oak as well as Cedar Park
24 Cemeteries, and that corporate entity is Perpetua

1 Holdings of Illinois.

2 Our lawsuit charges that Burr Oak
3 defrauded consumers and violated the state laws
4 regulating cemeteries. The Cemetery Care Act, the
5 Pre-Need Cemetery Sales Act and the Funeral or
6 Burial Funds Act. All of our claims are based on
7 the same deceptive scheme that you have heard so
8 much about. The employees of Burr Oak took
9 payments from consumers for cemetery plots and
10 burial services, falsely promising that the
11 deceased would be buried with dignity and their
12 plots would be maintained. Violating these
13 promises, the employees desecrated grave sites,
14 removed remains, and illegally buried remains in
15 others' graves. As part of this scheme, the
16 employees failed to place in trust the funds
17 received for the care of cemetery plots and for
18 future burials.

19 Our suit is in the Circuit Court of Cook
20 County. It has been consolidated with a number of
21 other cases that have been filed regarding Burr
22 Oak. And, again, our suit seeks to hold Burr Oak
23 accountable for the dreadful conduct that took
24 place there. We asked the Court to immediately

1 appoint a receiver to take over the cemetery, and
2 as you probably know, the Court did appoint Roman
3 Szabelski, the Executive Director of the Catholic
4 Cemeteries as a receiver, and he has been
5 overseeing the cemetery since July 16th.

6 The receiver is working with law
7 enforcement and families to sort out the situation
8 and to begin to repair the awful damage that has
9 been done. His initial task has been to assess
10 the situation, to respond to inquiries from
11 families, and then to formulate a plan to
12 stabilize the cemetery.

13 The Court, as you may have heard, has
14 recently allowed the receiver to access \$50,000
15 from the cemetery's Perpetual Care Fund to ensure
16 that cemetery staff are in place to perform
17 critical work.

18 At this point -- again, you probably know
19 this, but at this point the cemetery is still
20 considered to be an active crime scene by the
21 Sheriff's Office, so no burials have taken place
22 since the cemetery has been closed and visitors
23 are not allowed.

24 It is my understanding that part of the

1 receiver's critical focus right now is in working
2 with law enforcement and the funeral directors to
3 get the cemetery in a position where burials and
4 people who own plots can in fact resume.

5 With the receiver in place, the lawsuit
6 is essentially going to proceed on two tracks.
7 First, I expect that we will be routinely working
8 with the Court to make sure that the work of the
9 receiver is moving forward expeditiously and
10 appropriately. And, second, we will be continuing
11 to conduct discovery to obtain as much information
12 as possible about Perpetua Holdings. Our goal is
13 to establish who controlled the cemetery and who
14 financially benefited from the cemetery, and we
15 will go as far up the corporate ladder as we need
16 to. And our goal is to recover money, to recover
17 money for the families who have been defrauded,
18 for the repair of the cemetery, as well as for
19 penalties for this terrible conduct.

20 While Burr Oak represents the most
21 egregious cemetery case that we have handled, we
22 are involved in other cemetery and funeral home
23 matters. We tend to become involved in two
24 different ways. First, we have consumers that

1 reach out to us and file consumer fraud
2 complaints. Every year we receive an average of
3 70 complaints regarding cemeteries, funeral homes,
4 and monument companies. Let me put that in
5 context for you. 70 complaints on average out of
6 a total last year we got 33,335 total consumer
7 fraud complaints.

8 And let me give you the examples of the
9 typical complaints. In the case of cemeteries, we
10 receive calls often about the upkeep of grave
11 sites and maintenance, and we also receive calls
12 about issues with pre-need contracts, in
13 particular when people want to cancel or there is
14 confusion over the pre-need contract.

15 For funeral homes -- and I know this is
16 another issue you're supposed to be addressing --
17 consumers who call us have complaints about the
18 failure of the funeral home to provide promised
19 services, the quality of the products or services,
20 or confusion about the costs of services.

21 In the case of businesses selling grave
22 markers or monuments, the consumers who contact us
23 almost always have not received the product that
24 they have paid for.

1 In response to these consumer complaints,
2 we work with the consumers to mediate and resolve
3 the disputes and sometimes we file lawsuits. We
4 also pass the information on to the Comptroller's
5 office so that they can work with the consumers
6 and take any appropriate regulatory action.

7 The second way that we become involved in
8 these issues is through referrals of cases from
9 the Comptroller's office. When the Comptroller
10 cannot resolve financial irregularities or has
11 begun or even completed a license revocation
12 proceeding, he refers cases to my office. In
13 these lawsuits, we seek to prevent that person or
14 that company from engaging in further cemetery or
15 funeral home business in Illinois. We also seek
16 usually an order preventing the cemetery or the
17 funeral home from using money held in trust
18 accounts, and we often seek the appointment of a
19 receiver to oversee the cemetery or the funeral
20 home and to protect the funds as well as seeking
21 recovery of consumers of their money in the trust
22 funds.

23 Based on our office's experience in the
24 Burr Oak case and other cemetery and funeral home

1 cases, let me offer the following recommendations
2 for you to consider as how to strengthen the
3 process for regulating this industry and
4 protecting Illinois consumers. My recommendations
5 will likely echo some that you've already heard,
6 but let me go through what I think would be some
7 good ideas.

8 First, the cemetery industry obviously
9 needs to be subject to comprehensive regulation
10 here in the State of Illinois. This should
11 include the licensing of cemeteries as well as the
12 licensing of people who manage the day-to-day
13 operations of the cemetery and the people who sell
14 all cemetery goods and services, pre-need as well
15 as at-need services.

16 The licensing requirement should extend
17 to all cemeteries and be similar in structure to
18 the licensing schemes that apply to other
19 regulated professions. As part of the license
20 application, an applicant should be required to
21 disclose any prior criminal, civil, or
22 disciplinary actions taken against them in other
23 states, and I believe that the license should also
24 have to be renewed annually.

1 In addition to licensing, the state
2 entity regulating cemeteries should be charged at
3 the very least with conducting routine,
4 unannounced inspections of cemeteries, mandating
5 training for all cemetery employees, and creating
6 maintenance standards.

7 If our ultimate goal is enforcement of
8 the laws regulating cemeteries, then a requirement
9 of annual cemetery inspections is particularly
10 critical.

11 Second, we must ensure transparency in
12 the ownership and control of cemeteries. We need
13 to be sure that state regulators know who benefits
14 financially from a cemetery and who controls the
15 operations because we must be able to hold those
16 entities and those people responsible when
17 something goes wrong.

18 Third, we need to enhance protections for
19 consumers. You may know this, but if you don't,
20 the Federal Trade Commission has a rule that
21 actually requires funeral homes to disclose all
22 costs to consumers. So for example, the rule
23 requires that a funeral home give the consumer an
24 itemized price list. So this will help the

1 consumer comparison shop. It will also help the
2 consumer understand exactly what they are
3 purchasing, what they need to purchase.

4 I believe that we should create -- and we
5 can do it at the state level. We need to create a
6 similar requirement for cemetery goods and
7 services.

8 Consumers should receive clear,
9 large-print disclosures that assist them in
10 understanding the terms of their pre-need or
11 at-need contracts. So, again, this should include
12 the costs. It should include the type and length
13 of the interment rights that they are purchasing
14 as well as the location of the burial plot.

15 Consumers should also be encouraged to
16 deal not only with funeral directors but also
17 directly with the cemetery. So they should view
18 the plot before purchase, and they should obtain
19 written documentation of the contract from the
20 cemetery.

21 Fourth, as I know this task force has
22 discussed with a number of witnesses, plot numbers
23 and identifying information needs to be recorded,
24 either on the death certificate or on publicly

1 available maps and plats. We have to make sure
2 that families have the plot number and that it is
3 easy to obtain this information long after the
4 burial has taken place.

5 Finally, I think that you should
6 consider, as you have discussed at other hearings,
7 amending the Crime Victim's Compensation laws to
8 ensure that families whose loved one's remains
9 have been disturbed can afford to rebury them
10 appropriately.

11 I hope that these suggestions can assist
12 you as you put together your final
13 recommendations. I would be pleased to continue
14 to work with you on these important issues, and I
15 thank you for inviting me to testify today.

16 HONORABLE HOLMES: Thank you very much.

17 Now if you'll give us a few minutes to
18 entertain questions.

19 ATTORNEY GENERAL MADIGAN: Sure.

20 HONORABLE HOLMES: Start to my right. Do we
21 have questions at this end?

22 Representative Brady.

23 REPRESENTATIVE BRADY: Thank you very much,
24 Madam Chair.

1 Madam Attorney General, thank you for
2 being here. Appreciate your testimony.

3 I think you're aware of my background in
4 the funeral and former coroner profession that I
5 served for many years in my adult life. And I
6 wanted to ask about you mentioned some consumer
7 fraud complaints dealing specifically related to
8 cemeteries and/or funeral homes approximately 70
9 out of the 33,000 and some that your office
10 receives.

11 Do you pursue those yourself -- I mean
12 through your office -- or do you turn those over
13 to the Comptroller's Office immediately who is
14 charged with the duty of the Cemetery Care and
15 Burial Trust Fund of the State?

16 THE WITNESS: We do both. It depends what the
17 complaint is. Obviously it's a factual
18 determination. So if it's somebody who's having,
19 you know, a difference of opinion or a complaint,
20 it is typical in the consumer fraud area. You
21 know, I thought I was gonna be charged X number of
22 dollars. Now they're telling me it's gonna be
23 more dollars. That's something we typically see.
24 We will probably open a mediation on that and try

1 to resolve that between the parties.

2 If it is something that has to do with an
3 area that the Comptroller's Office has some
4 authority over, we send a copy of that over to
5 them as well so that they're aware of what we're
6 receiving. So in the normal course, although it
7 is not statutorily required, we will alert the
8 Comptroller's Office when we receive complaints
9 that fall into the -- their jurisdiction as well.

10 REPRESENTATIVE BRADY: So even though you're
11 not charged with the duties of maintaining
12 cemetery care and burial trust funds in the state,
13 probably from your Consumer Fraud Division, you
14 receive from the general public these complaints
15 just because they are going to the Attorney
16 General's Office. It seems like the thing to do
17 for the public --

18 THE WITNESS: Sometimes.

19 So for cemeteries -- let me break down
20 for you again what we hear. We hear complaints
21 about the upkeep of the cemetery itself. We hear
22 complaints about facilities, staffing, gravesite
23 services, how that went and complaints about
24 pre-need contracts, cancellation problems,

1 record-keeping problems. Now, obviously when it
2 is something that contends with maintenance,
3 pre-need contracts, we'll send that on as well to
4 the Comptroller's Office.

5 We also get complaints -- and this is not
6 uncommon -- about rudeness, poor employee
7 attitude, you know, one of the reasons for
8 recommending that the training take place, you
9 know, but that's general consumer service. I
10 don't know if we routinely send those over to the
11 Comptroller's Office, but that's a very small
12 percentage of complaints. But that's what we tend
13 to cover.

14 REPRESENTATIVE BRADY: The 50,000 that was
15 released by the Courts in regards to the cemetery
16 trust funds for the purpose of trying to help in
17 the situation and the receivership position,
18 you've got a lawsuit that you've filed through
19 your office. I'm assuming in Cook County the
20 State's Attorney's Office has filed and will
21 follow through with the criminal charges against
22 the individuals that have been charged. You're
23 seeking more civil litigation to this area; is
24 that correct?

1 ATTORNEY GENERAL MADIGAN: It is exactly
2 correct. So our lawsuit filed on behalf of the
3 People of the State of Illinois and the
4 Comptroller contends with the civil penalties that
5 are available against the owners of Burr Oak and
6 Cedar Park. And so it is filed essentially under
7 four Illinois statutes: The Cemetery Care Act,
8 the Pre-Need Cemetery Sales Act, the Illinois
9 Funeral or Burial Funds Act, and the Illinois
10 Consumer Fraud Act. But it's all civil.

11 REPRESENTATIVE BRADY: Do you think -- if
12 memory serves me correctly, we have some 33
13 sections of statute that deals with cemeteries,
14 funeral homes, funeral directors, embalmer's
15 license, et cetera, everything from the state
16 level to the municipal level to the township
17 level. Do you think it's more of an issue of new
18 laws that are needed or enforcement of existing
19 laws on the books?

20 ATTORNEY GENERAL MADIGAN: I think it's both.

21 REPRESENTATIVE BRADY: Okay. And in some of
22 the suggestions that you made, they sound very
23 familiar to me. Some legislation I've tried to
24 advance. So maybe I'll solicit your help this

1 time to the legislature. Maybe we can partner
2 together and get it done.

3 THE WITNESS: You know, I will always be happy
4 to help you, Representative.

5 REPRESENTATIVE BRADY: Thanks. I should have
6 started with you first. Thank you.

7 HONORABLE HOLMES: Representative Davis.

8 REPRESENTATIVE DAVIS: Thank you very much.
9 Glad to see you, Madam Attorney General.

10 I know that this has been an awesome task
11 for you in filing the criminal complaint. But my
12 question is --

13 ATTORNEY GENERAL MADIGAN: Let me -- let me
14 interrupt. It is the State's Attorney's Office.
15 So Anita Alvarez has authority over the criminal
16 statutes, and so she's the one who's filed the
17 criminal indictment. I -- what I have done and
18 what we have authority over out of the Attorney
19 General's Office are the civil penalties that are
20 in our statutes. So we have a civil complaint,
21 not criminal complaint.

22 REPRESENTATIVE DAVIS: Okay. My question is,
23 I know you've looked at the -- what do you call
24 it? The results of conviction, you know, what the

1 penalties will be. Do you think they're adequate?

2 And then also I see one here where the
3 Human Skeletal Remains Protection Act requires if
4 anybody discovers a skeletal remain they're to
5 report it to the coroner, and most people who are
6 visiting a grave or cemetery, they wouldn't even
7 know to report this to a coroner.

8 So I know that you've given many
9 suggestions as to what we should do in filing our
10 report, but do you think that some of these
11 penalties should be increased perhaps?

12 ATTORNEY GENERAL MADIGAN: I certainly think
13 that some of these penalties would be ripe for
14 increasing, particularly in this environment and
15 what we're contending with right now. Now what
16 you point to in terms of this Human Skeletal
17 Remains Protection Act, it is a criminal statute.

18 And, again, one of my suggestions was
19 training. And so if we are not training or
20 requiring training of the people who work at
21 cemeteries, they would have -- and let's assume,
22 you know, they are more likely to encounter this
23 situation, finding skeletal remains, those are the
24 people who need to know that that is a criminal

1 violation if there's a failure to report. They
2 should be trained, not only in this statute, but
3 in the other laws that cover cemeteries and
4 burials. And you would like to believe that there
5 would be, at a minimum, a deterrent effect if
6 employees of cemeteries knew what the laws were as
7 opposed to never requiring them to know what the
8 penalties would be for violating laws.

9 REPRESENTATIVE DAVIS: Well, some of the
10 testimony we received was that as a few people
11 visited the cemetery in Alsip, that they did see
12 some remains, and they reported it to the police.
13 And I don't know that the police knew that they
14 should report it to the coroner. So I think this
15 is a section of the law perhaps that we really
16 need to change.

17 And my thought is perhaps on -- for
18 example, in the funeral director, they give them a
19 sheet with a list of things to expect from the
20 funeral director, what the charges are, and
21 perhaps with the cemetery, we can also have a list
22 of things, if you look for it and you see anything
23 that's untoward, here's your reporting number, and
24 this is where you would report this to.

1 ATTORNEY GENERAL MADIGAN: I think it would be
2 very useful in terms of any documentation, maybe
3 include on the contract that is given to the
4 consumer when they purchase either funeral
5 services, burial and cemetery services -- goods or
6 services, that there is a point of contact in
7 addition to that funeral home or that cemetery, a
8 government entity, whether it is, you know, IDFPR
9 or the Comptroller's office -- you all can decide
10 who should oversee all of this -- so they know
11 there is another entity, or the coroner, where
12 information should be reported. Absolutely.

13 REPRESENTATIVE DAVIS: And do you agree that
14 the family should be required to visit the
15 cemetery and make the arrangements themselves?

16 ATTORNEY GENERAL MADIGAN: I don't think they
17 should be required to. I think they should -- I
18 think it's a very good idea, and they should be
19 strongly encouraged to not just interact with the
20 funeral director but also go to the cemetery and
21 to make sure that, again, what they are purchasing
22 for their loved one is what they want, is where
23 they want, and so they will have knowledge of that
24 location and be able to go through what the costs

1 are going to be with the cemetery as well as
2 whatever sort of funeral services and goods
3 they'll need.

4 REPRESENTATIVE DAVIS: Well, I kind of think
5 it should be mandated. Because in the
6 African-American community, it is tradition that
7 the funeral director does it all and that it is
8 the funeral director who supposedly gives the
9 needs or requests from the family to the cemetery
10 rather than, you know, it being direct contact.
11 That's just my opinion that I would strongly
12 enforce on this task force.

13 Thank you.

14 ATTORNEY GENERAL MADIGAN: Pleasure.

15 HONORABLE HOLMES: Thank you very much.

16 MR. McNARY: General Madigan, I'm William
17 McNary with Citizen Action Illinois.

18 Let me, first of all, thank you, not only
19 for your important and timely recommendations to
20 this panel on this issue, but your history of
21 outstanding public service and consumer protection
22 as Attorney General.

23 Like you, we believe that every human
24 being is entitled to live a meaningful and

1 fulfilling life and has -- is entitled to dignity
2 and respect and honor, and that dignity, respect,
3 and honor should follow them when they're laid to
4 their rest.

5 You mentioned a series of
6 recommendations. The first question I have, since
7 I didn't hear the last one, that many of the crime
8 victims -- could you repeat that one again?
9 That's the first question.

10 ATTORNEY GENERAL MADIGAN: There's a Crime
11 Victim's Compensation Act here in the State of
12 Illinois that allows victims of violent crimes in
13 general to be able to recover money for expenses
14 they don't have insurance to cover. So it tends
15 to be available for funeral and burial expenses
16 and in homicide cases.

17 So the concern here is that families,
18 through no fault of their own, have now been --
19 become crime victims. So the tragedies that have
20 occurred at Burr Oak where, hopefully, there will
21 eventually be identification of remains, and then
22 there will be a cost to re-interring these
23 remains. Whose gonna pay for that?

24 Now, it would be my belief, and obviously

1 one of the things that the State is doing in
2 pursuing a civil lawsuit against Perpetua
3 Holdings, is that we will have the resources to
4 pay for that, as they should be required to do.
5 But we will probably also have a situation where
6 we will want to have this done possibly before not
7 just the State of Illinois' lawsuit, but there are
8 probably at this moment I'm going to say
9 approximately 25 lawsuits. And so before those
10 lawsuits end, there will be family members who
11 need the resources to bury their family members
12 properly.

13 And so we, the legislature, should
14 seriously consider looking at amending the Crime
15 Victim's Compensation Act so that families in this
16 circumstance would be eligible for compensation.

17 MR. McNARY: We understand that Perpetua not
18 only owns Burr Oaks Cemetery, but it owns also
19 Cedar Park Cemetery. And my understanding is that
20 cemetery is still in operation; is that correct?

21 ATTORNEY GENERAL MADIGAN: Yes. They are
22 still in operation. They're still burying --
23 they're still burying people there.

24 I know we've been out there. I know

1 others have been out there. But they are part of
2 the lawsuit as well because they are owned by the
3 same company.

4 MR. McNARY: So we have a situation that the
5 people who perpetrated the tragedy on the families
6 of Burr Oak are now still being allowed to operate
7 Cedar Park Cemetery, the same company?

8 ATTORNEY GENERAL MADIGAN: No. The receiver
9 is now -- I'm correct? No. I'm not correct.

10 My understanding is Cedar Park is still
11 running. So let's do it -- let's look at it in a
12 big box.

13 You've got Perpetua Holdings. Perpetua
14 Holdings owns both Burr Oak and Cedar Park. The
15 receiver is over Burr Oak. We don't have a
16 receiver over Cedar Park. Cedar Park is still
17 running, but not with a receiver.

18 Yes, the same corporate entity still owns
19 it, but it is not the same individuals. Does that
20 make sense? It's the same individuals at the
21 cemetery level. But at the corporate level the
22 answer is, yes, they are still owned by the same
23 corporate entity.

24 Are you following?

1 MR. McNARY: So that -- I think so. So that
2 means that if this lawsuit is successful, then the
3 compensation from the Cedar Park Cemetery could
4 also be used, or that's just a separate
5 corporation -- you're saying that's a separate
6 corporation.

7 I guess the concern from a lot of
8 testimony that we've heard is that how is it --
9 and I don't know if there's anything legally that
10 can be done about it -- but how is it that those
11 people who own the cemetery which perpetuated the
12 tragedy against the people in Burr Oaks can still
13 be allowed to profit in this state by still
14 running another cemetery.

15 So I don't know if you have any comment
16 on that, but that is a recurring theme that keeps
17 coming up at this hearing.

18 ATTORNEY GENERAL MADIGAN: And what we're
19 attempting to do is I went through with our
20 lawsuit. One of the things we're attempting to do
21 is obviously to identify who are the individuals
22 who are financially benefiting? Who are the
23 individuals who were operating? When I say that,
24 I don't mean just at the Burr Oak level. I mean

1 one level above the company that owns them, this
2 Perpetua Holdings. So that's what we're
3 attempting to identify to go after the assets that
4 way, not to go after the assets necessarily
5 because they should be in separate funds. So I
6 hope that makes a little bit of sense to you.

7 MR. McNARY: Thank you.

8 HONORABLE HOLMES: Do I understand you
9 correctly in answering Mr. McNary's question that
10 although there is one ownership or parent owner,
11 there are two managers? The manager of Cedar Park
12 is separate and apart from the receiver who is
13 operating Burr Oak at this time; is that correct?

14 ATTORNEY GENERAL MADIGAN: That is correct.

15 MR. McNARY: Lastly, you've -- of the date
16 recommendations that I talked about, you mentioned
17 all of them except one, and I just wonder if you
18 had any comment on whistle-blower protection for
19 those people who would come forward and maybe
20 tell -- attempt to tell authorities about what's
21 going on before the fact instead of after the
22 fact?

23 ATTORNEY GENERAL MADIGAN: I'm always in favor
24 of whistle-blower protection. I didn't mean my

1 recommendations to be a comprehensive list because
2 I know that you've heard many recommendations. So
3 absolutely. Whistle-blower protections are
4 probably vital in this circumstance, particularly
5 with what we've seen with Burr Oak.

6 MR. McNARY: Thank you so much.

7 REPRESENTATIVE DAVIS: Thank you, Madam Chair.
8 Thank you very much, Madam Chair.

9 HONORABLE HOLMES: Sure.

10 REPRESENTATIVE DAVIS: Attorney General, are
11 you familiar with the cemetery at 115th and
12 Fairfield?

13 ATTORNEY GENERAL MADIGAN: What's the name of
14 it?

15 REPRESENTATIVE DAVIS: Oh, gee. I don't
16 remember.

17 UNIDENTIFIED SPEAKER: Mount Hope.

18 REPRESENTATIVE DAVIS: Mount Hope.

19 You know about that circumstance where
20 they've also had problems?

21 ATTORNEY GENERAL MADIGAN: Similar to the Burr
22 Oak problems?

23 REPRESENTATIVE DAVIS: Not exactly the same.
24 But -- so if you're not familiar with it, that's

1 okay.

2 ATTORNEY GENERAL MADIGAN: Well, feel free to
3 call.

4 REPRESENTATIVE DAVIS: Yes. Okay. Thank you
5 very much.

6 REPRESENTATIVE DUNKIN: Thank you, Madam
7 Chair.

8 Attorney General, how are you?

9 THE WITNESS: I'm well, Representative Dunkin.

10 REPRESENTATIVE DUNKIN: You have always been
11 my advocate and certainly my Attorney General on
12 the right issues for me and other Illinoisans as
13 consumers, so thank you for your due diligence.

14 About how many complaints or issues
15 have -- does your office or have your office
16 received over the last several years, let's say
17 from 2005? Any at all or...

18 ATTORNEY GENERAL MADIGAN: I can give you -- I
19 had them run 2008 numbers so last year's numbers.
20 Approximately 70 out of 33,345 complaints, and
21 that would be complaints -- primarily 45 percent
22 of those complaints are going to be regarding
23 funeral homes, 32, 33 percent about cemeteries,
24 and that 11, 12 percent that's left over is going

1 to be about monument services, gravestones.

2 REPRESENTATIVE DUNKIN: Anything that would
3 have given you or your staff indication of sort of
4 the scenario that we experienced at Burr Oak?

5 ATTORNEY GENERAL MADIGAN: We had received no
6 complaints about Burr Oak Cemetery. I've had them
7 check that over the past few months at this point.

8 REPRESENTATIVE DUNKIN: Do you have a staff or
9 unit that's specifically assigned to funerals or
10 cemeteries? None whatsoever?

11 ATTORNEY GENERAL MADIGAN: No. Our Consumer
12 Fraud Bureau takes in consumer fraud complaints on
13 every conceivable topic. And so within that group
14 is where those 70 complaints would come into. But
15 they're -- you know, they're jacks of all trades.
16 They work on complaints regardless of the nature
17 of them.

18 REPRESENTATIVE DUNKIN: Sure. So general
19 complaints. So with certain -- with specific
20 complaints, you would refer them to the
21 appropriate authority or state authority or local
22 authority I would imagine and work with them.

23 ATTORNEY GENERAL MADIGAN: Most of the -- yes.
24 We tend to get consumer fraud complaints. And

1 obviously when we review those, we will determine
2 whether or not there is a separate agency that
3 should handle that or if it is appropriate for us
4 to attempt to mediate that complaint. And so if
5 there's a separate entity, we will make sure that
6 that is where that person and that complaint gets
7 referred to. Oftentimes we will send things to
8 notify, for instance, the Comptroller's Office as
9 well as work on mediation on the consumer fraud
10 side.

11 REPRESENTATIVE DUNKIN: So you did notify the
12 Comptroller's Office in some -- in regard to the
13 funeral and cemetery --

14 ATTORNEY GENERAL MADIGAN: Where it's
15 appropriate. So if it's a pre-needs issue, yes,
16 because they have jurisdiction over that and
17 authority over that. Maintenance issues, yes.

18 REPRESENTATIVE DUNKIN: Maintenance and lots
19 and plots you refer to the Comptroller's office?

20 HONORABLE HOLMES: If it's appropriate to
21 refer to them, they do, yes. But in addition to
22 keeping them. So we give -- we basically send
23 them a copy so they're on notice of what's taking
24 place, and we will work on mediation to resolve

1 the situation. It's all very fact-specific
2 depending on what the complaint is about.

3 REPRESENTATIVE DUNKIN: Thank you, Attorney
4 General.

5 ATTORNEY GENERAL MADIGAN: You're welcome,
6 Representative.

7 HONORABLE HOLMES: Thank you, Representative
8 Dunkin.

9 We have one -- one individual who had
10 their hand up first, and then we'll go to you,
11 Mr. Cage. Thank you.

12 DR. ARNOLD: Thank you --

13 HONORABLE HOLMES: If I may, just for
14 protocol, I would like to remind the members of
15 the task force to please state your name because
16 the proceedings are being taped, and so we want to
17 make sure that the tape recording reflects the
18 speaker.

19 DR. ARNOLD: I'm Damon Arnold, Director for
20 the Illinois Department of Public Health. Thank
21 you again for your service and dedication to the
22 state. You've done great things over time.

23 But one question I have is really
24 regarding the retroactive coverage by law in these

1 situations because many people are now in a
2 situation where they are facing some of the issues
3 and whether, you know, sites that are already
4 established, crypts and those kind of things, are
5 going to be covered by the law once it goes into
6 place.

7 And then the other thing is about
8 consumer education campaign because you mentioned
9 that about going forward. But is there a need to
10 reeducate the public on some of the past practices
11 that have already affected them and their families
12 and people already interred in the cemeteries and
13 may not be aware of some of the consumer
14 protections that are out there or established when
15 they actually laid their loved ones to rest?

16 ATTORNEY GENERAL MADIGAN: Director, I think
17 that's a very good point. You know, I have to
18 presume that one of the unfortunate -- or maybe
19 you would look at it as maybe the silver lining in
20 the Burr Oak situation -- is that many families,
21 regardless of where they have their loved ones
22 buried, have probably gone out to visit and to
23 make sure that they know where that plot is and to
24 look at how the cemetery has been maintained.

1 You know, we have seen an increase in the
2 number of consumer fraud complaints and heard some
3 additional concerns over the past few months,
4 which I think again is a natural outgrowth of the
5 tragedy at Burr Oak. And so to some extent, this
6 tragedy has provided an opportunity to do that
7 consumer education, and obviously the media has
8 helped immensely in that. So I've seen articles
9 and certainly watched programs where, you know,
10 they provided in addition to an update on the Burr
11 Oak situation, you know what you should do when
12 you're thinking about purchasing these services on
13 a pre-need basis, what you should do and expect
14 should a loved one die suddenly and you need to do
15 it on at at-need basis.

16 But we always work and we will continue
17 to work, you know, based on the recommendations
18 and I think ultimately the law that gets amended
19 or passed, to provide that information to members
20 of the public so that they can better protect
21 themselves on the front end of all of these
22 transactions.

23 HONORABLE HOLMES: Thank you.

24 MR. CAGE: Madam Attorney General, welcome,

1 and I certainly have appreciated your testimony up
2 to this point.

3 My name is Augustus Cage. I'm President
4 and Director of Cage Memorial Chapels and Past
5 President of the Cook County Association of
6 Funeral Home Owners.

7 I was very, very happy to note your
8 recommendation with respect to licensure and
9 training as it involved cemetery personnel
10 management and so forth. To date, cemeteries I
11 think in the main have done a very, very fine job
12 as we work tandemly to serve families. However,
13 there are a number of them -- and I think some of
14 the cemeteries -- cemeterians will agree that
15 training is very, very much important.

16 My question is gonna kind of piggyback
17 something that Representative Davis made reference
18 to: The need to actually have a family go to the
19 cemetery. And the reason I'm kind of reiterating
20 this because I think once the task force forms its
21 recommendations, we'd certainly need some muscle
22 from the AG's office. But nonetheless -- I
23 shouldn't say we need. It would be helpful.

24 But in any event, it is a separate

1 transaction and a separate contract and so forth.
2 And personally as a funeral director -- and I
3 think I speak for my colleagues in that end of the
4 business -- we don't really want to be responsible
5 for other people's money and the contractual
6 commitments therein. So from that standpoint, I
7 would certainly heartily encourage that your
8 recommendations with regard to training and
9 perhaps certification, if not licensure, would
10 certainly be welcome.

11 The other part I was gonna pose a
12 question about. Of the 30-some-thousand
13 complaints that you've gotten, how many, if any,
14 have emanated from the Comptroller's Office to
15 your office and thereby launching an
16 investigation.

17 ATTORNEY GENERAL MADIGAN: That does occur as
18 well, so...

19 MR. CAGE: Any idea about and what proportion
20 is the number?

21 ATTORNEY GENERAL MADIGAN: Well, I can tell
22 you when they reach out to us, it's often so that
23 we can file a lawsuit. So I can tell you that
24 right now across the State of Illinois, in

1 addition to the lawsuit against Burr Oak, there
2 are four other lawsuits against cemeteries. And I
3 can tell you -- let me try to tell you where. One
4 in Rock Island County, one in Peoria County, one
5 in Massac County -- all right. You're gonna force
6 me to look at my little cheat sheet here.

7 Oh, there's the big one down in -- down
8 in Belleville, so in Madison County, against
9 Mid-America Growth and Development Corporation,
10 Forever Illinois. So those are the other sites.
11 So there are a number of other lawsuits.

12 And usually that's the communication with
13 the Comptroller's Office. When they reach out to
14 us, it's so that we can file a lawsuit under these
15 cemetery statutes. And usually because there have
16 been financial irregularities, a receiver needs to
17 be appointed, maintenance problems that have
18 emanated out of those circumstances, misuse of
19 funds.

20 MR. CAGE: Had you ever gotten complaints or
21 specific requests from Mr. Hynes' office to look
22 into the activities of Burr Oak Cemetery?

23 ATTORNEY GENERAL MADIGAN: We did not.

24 MR. CAGE: Never?

1 Thank you very much.

2 HONORABLE HOLMES: Thank you very much.

3 One last question which dovetails off of
4 a question from Representative Davis as well.

5 You indicate that you have several
6 lawsuits throughout this state. Given that they
7 are civil in nature, do you believe that the civil
8 penalties are sufficient, or do they need to be
9 enhanced?

10 ATTORNEY GENERAL MADIGAN: The civil
11 penalties -- you know, there's a series of them.
12 So when we bring our lawsuits, it depends what
13 statutes we use. Many of these cases we will also
14 include Consumer Fraud Act claims, and those
15 penalties, you know, \$50,000 per violation,
16 \$10,000 in addition to that per violation if the
17 crime was committed against somebody over the age
18 of 65. But in drafting our complaints, as any
19 lawyer would do, we also obviously ask the Court,
20 you know, in addition for the penalties and the
21 restitution and whatever else is available any
22 other just relief that the Court would like to
23 give us.

24 So in terms of civil penalties, it is

1 arguable depending on what the circumstances are
2 that they should be enhanced. You know, normally
3 what we're trying to do is to make sure that we
4 can figure out who's making the money, who
5 controls that cemetery, and hold them responsible.
6 Get the cemetery cleaned up, make sure it is sold
7 so that it can continue to accept burials and be
8 maintained.

9 And so outside of that -- and sometimes
10 that's a struggle right there. Sometimes there
11 just isn't the money to even be found to assess
12 additional penalties.

13 HONORABLE HOLMES: Thank you so much, Attorney
14 General. We really appreciate your time and
15 efforts in coming. Your preparation was
16 outstanding, and we will definitely take your
17 recommendations to heart. Thank you.

18 MR. CAGE: Madam Chairman, before you let her
19 go, I did have one question pop to my mind, and
20 please forgive me.

21 In your examination and your --
22 furthering your civil action against the Perpetua
23 Corp. and in particular Burr Oak, and I'm sure
24 you've probably had an opportunity to do some

1 audits and see if there's sufficient monies or who
2 knows if there would be a sufficient amount of
3 money.

4 But I know Mr. Szabelski is going to have
5 ongoing needs for restoration and the completion
6 of his -- I don't know how he does it, but he's
7 got a monumental task. But nonetheless, in your
8 estimation, will there be sufficient monies in the
9 coffers to further his efforts?

10 ATTORNEY GENERAL MADIGAN: There is money in
11 the funds, but it remains to be seen whether or
12 not there will be sufficient monies.

13 So, again, one of the main challenges
14 we're having right now is identifying the
15 individuals, not at Burr Oak, but at that level
16 above the Perpetua Holdings level, who are
17 responsible where that money went.

18 And so, again, yes, there is money. Is
19 it sufficient? I don't have a definitive answer
20 for that at this point.

21 MR. CAGE: Well, because from where we sit,
22 there's three areas of interest from a financial
23 prospective. Number one -- and I don't know which
24 comes first; the chicken or the egg here -- but

1 you've got a civil action in which there will be
2 ensuing penalties. No. 2, I guess some lawyers
3 came on the air very early on in this disclosure
4 that they're forming class action suits. So
5 they're waiting in line. And then third and
6 final, there's Mr. Szabelski who has to see about
7 putting this thing back together.

8 So, you know, you've got three very
9 strong interested parties here, and my concern is
10 because we go there on a regular basis serving our
11 clientele -- and I can speak for the rest of the
12 African-American community in terms of funeral
13 directors -- if there's gonna be, you know,
14 sufficient proceeds to restore this thing?

15 ATTORNEY GENERAL MADIGAN: Again, I don't have
16 a definitive answer to that question right now. I
17 appreciate and understand your concerns. The good
18 thing I can tell you is, is that all of those
19 cases at the state level are in the same
20 courtroom. So at least we've got one judge who is
21 aware of all of these different charges against --

22 HONORABLE HOLMES: Who is that judge? Do you
23 recall.

24 UNIDENTIFIED SPEAKER: Judge Martin Agren,

1 A-G-R-E-N.

2 ATTORNEY GENERAL MADIGAN: There's also a
3 number of federal cases is my understanding.

4 From our perspective, which I think is
5 very similar to yours, you've got to have the
6 receiver in there, determine what happened, find a
7 way to move forward. I understand the significant
8 concerns about being able to resume burials. I
9 know there is a great deal of pressure that
10 funeral directors are under right now in the
11 African-American community because Burr Oak is
12 still a crime scene and, therefore, is not open,
13 not accepting burials. And then also, in terms of
14 other interests, the Court is going to have to
15 contend with the restitution for the families and
16 what are we going to do about their loved ones'
17 remains and re-interring them.

18 MR. CAGE: I guess I was really curious to
19 know what's the pecking order or how did the food
20 chain stack up in this particular situation?

21 ATTORNEY GENERAL MADIGAN: The judge will be
22 the ultimate determiner of that.

23 MR. CAGE: Thank you.

24 HONORABLE HOLMES: Attorney General, I am so

1 sorry, but Mr. Cage just opened a major can of
2 worms, and I'm going to just allow ten seconds to
3 close that can.

4 And if -- Representative Davis has
5 something that she has asked almost every
6 individual --

7 REPRESENTATIVE DAVIS: Well, first of all, I
8 want to thank the Attorney General for her
9 extremely candid and knowledgeable testimony. We
10 thank you so much for that as the chairman has
11 already stated.

12 But my question is: Do you believe --
13 because this is such a sensitive area. So many
14 people have been hurt. They feel like they're
15 burying their relatives all over again. They're
16 going through the grieving process again. And my
17 thought is that perhaps we should require cemetery
18 owners to be residents of the State of Illinois.

19 HONORABLE HOLMES: In answering that, will you
20 also address if you have an opinion as to whether
21 the cemetery owners, any cemetery owner should be
22 insured and/or if they should have a certain
23 amount of money put up in an escrow account to
24 cover situations such as this? So in answering

1 her question, if you could add that to it, I'd
2 appreciate it. Thank you. And I promise this is
3 the last question.

4 ATTORNEY GENERAL MADIGAN: No. That's okay.
5 I'm happy to be here. I'm happy -- this is an
6 important issue. I'm happy to spend my time with
7 you.

8 Whether cemetery owners should be -- of
9 Illinois cemeteries should be residents, as the
10 lawyer for the State, we'll have jurisdiction over
11 them regardless if they're here or not because
12 they're doing business here in the State of
13 Illinois. Our concern, and one of my
14 recommendations regarding the transparency, was
15 because we are already facing a challenge in
16 determining exactly who -- if Perpetua, you know,
17 is in control. Who's financially benefiting?

18 So as long as we have that information
19 and you can require that in terms of the
20 licensure. Corporate structure? Who does what?
21 Where does the money go? If we have that
22 information, I am less concerned that the owner
23 has to be a resident of the state. There may be
24 additional legal complications with attempting to

1 require that.

2 Your second question was insurance --

3 HONORABLE HOLMES: Insurance and possibly
4 escrow or insurance.

5 ATTORNEY GENERAL MADIGAN: Well, that is going
6 to obviously make burial more expensive because
7 that cost will be passed along. And so you're
8 trying to ensure against criminal acts. If it's
9 a -- if it's a de minimis amount and we'd be able
10 then to have funds when tragedies of this nature
11 occur, it's probably something you should
12 consider.

13 I haven't thought about it enough to
14 know -- to give you a definitive I'm absolutely
15 for this or absolutely against it. But I guess I
16 would try to recognize, you know, both sides of
17 it, right, as any good lawyer.

18 So how much of a cost is it going to be
19 on people when they have to bury a family member,
20 which is -- which can already be a very expensive
21 situation versus, you know, how often are we gonna
22 see these criminal situations. One would hope --
23 one would hope we never see what happened at Burr
24 Oak again.

1 HONORABLE HOLMES: Thank you so much. I truly
2 appreciate your time.

3 ATTORNEY GENERAL MADIGAN: If you need more of
4 my time, I am on the 12th floor. Always happy
5 to be available to any of you.

6 HONORABLE HOLMES: Thank you.

7 THE WITNESS: Thank you very much.

8 HONORABLE HOLMES: Thank you so much.

9 We'll now hear from our Illinois
10 Comptroller, Dan Hynes.

11 Thank you very much, Mr. Comptroller. We
12 appreciate your willingness to come before our
13 task force to testify.

14 If you have a statement that you'd like
15 to make, we'd like to hear it. Otherwise we'd
16 like to ask questions. It's up to you.

17 COMPTROLLER HYNES: Thank you, Madam Chair. I
18 do have an opening statement, and I'd be happy to
19 answer all questions.

20 I want to thank the task force for your
21 efforts in this -- in the aftermath of this
22 horrible tragedy as we try to pursue reforms that
23 will benefit consumers and protect consumers, both
24 those who have been victimized in Burr Oak, but

1 also in the future to make sure that we have a
2 regulated industry which we do not to date.

3 First, let me again just express my
4 sympathy for the thousands of families and loved
5 ones who were affected by the shocking events at
6 Burr Oak Cemetery because I met with --

7 HONORABLE HOLMES: I apologize for
8 interrupting. I really do. But could you
9 identify the two individuals who are sitting next
10 to you. I --

11 COMPTROLLER HYNES: Thank you. I've lost my
12 manners. Sorry, Madam Chair.

13 Jessica Sohl, who is a staff attorney in
14 the office, and Percy Lucina who is the Director
15 of the Cemetery Care Burial Trust Division.

16 HONORABLE HOLMES: And if they or you can
17 spell the names for the court reporter.

18 MS. SOHL: Sure.

19 HONORABLE HOLMES: Spell the names.

20 MS. SOHL: S-O-H-L.

21 COMPTROLLER HYNES: Jessica.

22 MS. SOHL: Jessica.

23 MR. LUCINA: And I'm Percy, P-E-R-C-Y
24 L-U-C-I-N-A.

1 HONORABLE HOLMES: I apologize again,
2 Mr. Comptroller. You --

3 COMPTROLLER HYNES: Thank you.

4 HONORABLE HOLMES: Please proceed.

5 COMPTROLLER HYNES: I was just expressing my
6 condolences and sympathies for the families of
7 this tragedy.

8 As I went to the cemetery in the days
9 after this horrible discovery at a prayer vigil
10 outside the cemetery and a federal hearing that
11 was conducted by Congressman Bobby Rush and his
12 subcommittee and the families who were there, it
13 is evident that this tragedy has certainly not
14 only brought grieving families to have to grieve
15 again but has really awoken many emotions
16 surrounding the death care industry. And my only
17 hope is that through tragedy we can actually bring
18 about reforms that we've been fighting fo,r, for
19 many years. I think that's what my -- my remarks
20 will be dedicated to as well as I'm sure many of
21 the questions that you'll be asking.

22 As Comptroller, my office has limited
23 legal authority over cemeteries, specifically
24 focusing on consumer funds accepted by the

1 cemetery that are held in trust with trust
2 earnings to be used for the care of the cemetery.

3 The office also licenses funeral homes
4 and cemeteries that sell pre-need arrangements in
5 advance of death. Under those licenses, the
6 pre-need funds are held in trust until needed to
7 cover funeral and cemetery costs at the time of
8 death. The office requires annual financial
9 reporting and conducts audits to ensure financial
10 compliance. Local government, religious, and
11 fraternal organizations and their cemeteries
12 register with the Office but are not licensed or
13 audited by the Office because state law
14 specifically exempts them.

15 Thus, in Illinois the Office of the
16 State's Chief Fiscal Officer has a limited role in
17 overseeing entrustment at a limited number of
18 cemeteries and funeral homes.

19 The State Department of Financial and
20 Professional Regulation issues licenses for
21 funeral directors and embalmers and is supposed to
22 regulate the operations of most trust fund --
23 trust funds through the Divisions of Banks and
24 Trusts.

1 The Department of Insurance has a role
2 when insurance policies are used by consumers or
3 trustees as investment vehicles. Also the State
4 Department of Health has certain regulations
5 pursuant to the State Vital Records Act concerning
6 permits, death certificates, and the like. And,
7 of course, the Department of Human Services
8 administers grants to pay for Medicaid burials.

9 However, there is no regulation of most
10 at-need sales. There is no real regulation of
11 cemetery maintenance or operations, and there is
12 at best minimal oversight of nontrust fund record
13 keeping. In short, there is a regulatory vacuum
14 in Illinois.

15 A decade ago when I was elected
16 comptroller, I held hearings around the state
17 about cemetery and funeral home issues. The most
18 common complaint was inadequate or poor
19 maintenance. Thus, when I proposed legislative
20 reforms to address concerns about the death care
21 industry, I included a minimum maintenance
22 standard. Unfortunately, despite several years of
23 trying, that provision did not make it through the
24 legislative process, largely because of the

1 influence of the death care industry at our state
2 capital.

3 However, in 1999, 2001, 2002, we were
4 able to successfully expand some consumer
5 protections within the limited areas of pre-need
6 sales, care fund entrustment, and licensing of
7 crematories. In each case the bill I proposed was
8 watered down through industry lobbying, and other
9 reform bills were outright opposed and killed by
10 industry opposition in 2000, 2005 and 2007.

11 This past spring I proposed and the
12 general assembly passed legislation to further
13 strengthen trust fund regulation by requiring that
14 all trust funds be held by an independent trustee
15 that is a corporate fiduciary. These trustees
16 are, therefore, regulated either at the state
17 level by the Illinois Department of Financial and
18 Professional Regulation or at the federal level by
19 the Comptroller of the Currency or the Office of
20 Thrift Supervision.

21 I was pleased this legislation had the
22 support of IDPFR, IDFPR, the AARP, and Citizen
23 Action. The Governor recently issued a mandatory
24 veto of that legislation to change the effective

1 date from January 1st, 2010, to January 31st,
2 2010. This veto by the Governor to change the
3 effective date by 30 days I believe jeopardizes
4 these hard-fought consumer protections, and I hope
5 that we can make it through to make that
6 legislation become law.

7 I also urge this task force to further
8 recommend the reforms included in the legislation
9 I put forward in July in the wake of the Burr Oak
10 tragedy. Led by my office, we worked with Rainbow
11 Push, the Cook County State's Attorney, the Cook
12 County Sheriff's Office, and the Recorder of
13 Deeds, individual legislators, legislative staff,
14 and others to produce comprehensive legislation
15 that addressed the issues in the death care
16 industry.

17 Among the specific reforms included were:
18 Licensing and continuing education of cemeteries
19 and salespeople, mandatory recording of both the
20 purchase of cemetery plots and of burials via the
21 Recorder of Deeds and the death certificate
22 process respectively, minimum maintenance
23 standards for cemeteries, Crime Victim's
24 Compensation and enhanced criminal penalties to

1 address the criminal actions perpetrated at Burr
2 Oak as well as an adequate reimbursement for
3 public aid burials.

4 I've been fighting for reforms in the
5 regulation of the death care industry for over a
6 decade now. During that time reforms have been
7 fought vigorously by industry lobbyist.

8 I want to point out that I do not accept
9 campaign contributions from the cemetery and
10 funeral home industry or their political action
11 committees. Though I firmly believe that a
12 majority of funeral homes and cemeteries in our
13 state are run by decent, hard-working men and
14 women who truly care for their customers, I do not
15 want there to be any conflict of interest on my
16 behalf when it comes to fighting for consumers.

17 Avoiding that conflict has given me the
18 freedom to aggressively use what regulatory
19 authority the Office of Comptroller affords me.
20 Sometimes it has been simple things, like the
21 creation in 1999 of a toll-free hotline for
22 consumers to call with questions or complaints.
23 Other times it has been more complicated, like the
24 2002 investigation and administrative action

1 against multi-million dollar, multi-state death
2 care corporations that lead to payments of
3 \$2.3 million from Alderwoods and \$309,000 from
4 SCI, a conglomerate. Combined these two
5 corporations operated 62 cemeteries and 194
6 funeral homes here in Illinois.

7 As we proceed today, you will know how --
8 you might hear about the Illinois Funeral
9 Directors Association. This is where auditors
10 from my office uncovered millions of dollars in
11 excess fees, millions more in excess credits to
12 member funeral homes, and a massive accounting
13 fraud. Again, instead of rushing out with a press
14 release, my office worked with appropriate state
15 and federal authorities, like state insurance,
16 trust fund, and securities regulators, none of
17 whom investigated IFDA's unlawful practices until
18 my office uncovered the fraud.

19 And more recently a multimillion dollar
20 federal lawsuit was filed in St. Louis against the
21 owners and affiliates of National Prearranged
22 Services, Inc., NPS. This alleged scam involved
23 approximately 149,000 consumers in 47 states. In
24 the pages of that legal filing, you can read about

1 the work that my office did of necessity behind
2 the scenes and in cooperation with other
3 regulators and law enforcement. We uncovered
4 evidence of systemic contract tampering involving
5 thousands of consumers contracts, and we
6 diligently worked with the appropriate state and
7 federal authorities. That work was not intended
8 to generate headlines; rather it was intended to
9 bring about results. That work led not only to a
10 private lawsuit but a Federal Grand Jury
11 indictment.

12 In addition, my office has a long record
13 of going after bad actors in the death care
14 industry across the state:

15 Revoking the license of Larry Leach at
16 Springdale Cemetery in Peoria and successfully
17 negotiating an intergovernmental agreement to
18 maintain the cemetery.

19 Recovering nearly a million dollars in
20 restitution for pre-need consumers of Thomas
21 Mortuaries in Granite City.

22 \$66,000 in restitution for consumers of
23 Smith Funeral Home in Paris, Illinois.

24 \$39,000 for consumers of Roebuck Funeral

1 home in Rockford.

2 \$142,000 for consumers of Weber McCann
3 Funeral Home in Chillicothe, Illinois.

4 \$1.4 million in restitution and fines
5 from the owners of Burke-Tubbs Funeral Home in
6 Freeport.

7 \$150,000 for consumers of Warren County
8 cemetery.

9 Court action against Drexel Funeral Home
10 in Maywood for unlicensed pre-need sales.

11 \$26,600 in restitution and fines from the
12 owners of Senesac Funeral Home in Kankakee.

13 Revoked the license of Spady Community
14 Funeral Home in Decatur for violations of the
15 Funeral or Burial Funds Act.

16 Investigated and performed an audit of
17 Staab Funeral Home in Springfield resulting in a
18 change in trust fund investment practices.

19 \$240,000 in excess fees returned to
20 funeral homes from FDSA after an investigation and
21 an order from my office.

22 Court action against Prime Acquisition
23 Group and Prime Succession, Inc., for failure to
24 entrust consumer funds and an attempted massive

1 corporate buyout by a Florida firm of Illinois
2 funerals homes.

3 Shut down Werner Mick Funeral Home and
4 Cremation Specialists in Pontoon Beach, Illinois,
5 for operating an unlicensed crematory and
6 violations of the Funeral or Burial Funds Act.

7 Revoked the license of William Mortuary
8 in Alton for violations of the Funeral or Burial
9 Funds Act.

10 Court action against Richard Cody and
11 Roselawn Memorial State Cemetery in Moline for
12 unlicensed pre-need sales and failure to entrust
13 consumer funds including \$1.75 million judgment
14 entered just last week in Rock Island Circuit
15 Court.

16 Shut down and revoked the license of
17 Larson Funeral Home in Rock Island for violation
18 of the Funeral or Burial Funds Act.

19 Revoked the license of Twin City Memorial
20 Chapel in Champaign for violations of the Funeral
21 or Burial Funds Act.

22 Court action including the appointment of
23 a receiver for Metropolis Memorial Gardens in
24 Metropolis, Illinois for numerous violations of

1 cemetery and consumer protection laws.

2 Revoked the license of Wilton Cemetery
3 LLC for American Mausoleum in Peoria following a
4 bankruptcy filing and subsequent advocating for
5 consumers in cases in federal and state court
6 including the appointment of limited receiver over
7 the trust funds.

8 And with the assistance of the Attorney
9 General's Office, we successfully prosecuted
10 Conboy-Westchester Funeral Home employee Anthony
11 Kripas for stealing \$32,655 in pre-need funds from
12 consumers. This was especially significant
13 because Mr. Kripas was a member of the Department
14 of Professional Regulations Funeral Directors and
15 Embalmers Licensing and Disciplinary Board.

16 This doesn't include the countless
17 tragedies averted through my office's scrutiny of
18 licenses.

19 For example, in 2007 Tennessee and
20 Michigan saw an embezzlement scandal that costs
21 consumers over \$90 million. Illinois was
22 untouched by the Clayton Smart scandal because in
23 2006 my office put a stop to suspicious trust fund
24 activities by the Decatur-based Quantum Inc. And

1 in 2007 we stopped an Illinois cemetery from
2 transferring their trust funds to Security
3 Financial Management. Both Quantum, Inc. and
4 Security Financial Management are tied to
5 Mr. Smart. Mr. Smart goes on trial in Memphis,
6 Tennessee this coming January.

7 To sum it up, the Comptroller's Office
8 has a limited authority over certain entrustment
9 requirements in the death care industry. During
10 my tenure I have sought to increase consumer
11 protections, sometimes over the vigorous
12 opposition of industry lobbyists. And my office
13 has used our existing regulatory powers, often in
14 conjunction with other state and federal
15 authorities, to crack down on bad actors and
16 provide restitution for consumers.

17 This task force was formed in the wake of
18 a horrendous tragedy. Now we have a choice. We
19 can choose the hardest public outrage and media
20 attention to push through long-neglected reforms,
21 and I believe that is the right choice.

22 American history is replete with examples
23 of how tragedies can help overcome industry
24 resistance to change.

1 The 1911 Triangle Shirtwaist fire led to
2 legislation that improved working conditions in
3 factories.

4 Here in Chicago the 1903 Iroquois Theater
5 fire and the 1958 Our Angels -- Our Lady of the
6 Angels School Fire led to the adoption of building
7 safety codes.

8 The 1978 Love Canal Tragedy led to the
9 adoption of major environmental protections.

10 In all of these cases, industry had long
11 opposed the needed reforms. Their lobbyists
12 killed them in Congress and then state
13 legislatures. It was only after a tragedy
14 galvanizing public opinion that reform could
15 finally be pushed through and the public interest
16 finally served.

17 Ladies and gentlemen, this is our
18 opportunity, unfortunately in the wake of a
19 tragedy, to move an agenda forward and bring
20 reform and protection to consumers who have gone
21 without protection for too long. Thank you.

22 HONORABLE HOLMES: Thank you very much for
23 your statements, Mr. Comptroller, and we will now
24 entertain questions.

1 Our first questions will be from
2 Representative Dunkin.

3 REPRESENTATIVE DUNKIN: Thank you, Madam
4 Chair.

5 Comptroller Hynes, are you familiar with
6 the Cemetery Care Act in terms of its original
7 intent in 1948 when it was formed, and then in
8 1971 when the Illinois Constitution Convention
9 ratified the state's current constitution that
10 were under it. Are you familiar with that?

11 COMPTROLLER HYNES: Yes.

12 REPRESENTATIVE DUNKIN: Okay. Are you
13 familiar that your office not only has fiduciary
14 responsibility of trust, but you also have the
15 complete and the -- really the only authority in
16 the State of Illinois for -- and I'll review --
17 but as a matter of fact -- for a record, I'm State
18 Representative Ken Dunkin.

19 I'll read the exact statute in the
20 Illinois Code of Statutes, Volume 760, 100.

21 Am I saying that right, counsel?

22 760, Illinois Code of Statutes, 100,
23 Cemetery Care Act, Section 2 -- or Chapter 21
24 Paragraph 64.2, Section 2.

1 I'm sure maybe your staff member is
2 familiar with it.

3 Before we even -- before it even
4 discusses the care fund, as you so eloquently
5 described and distinguished in terms of your
6 duties, it states, care means -- and I'll quote
7 this. I'll read this. It's right in the statutes
8 here.

9 It means that "the maintenance of a
10 cemetery, the lots, the graves, the crypts, the
11 niches, the family mausoleums, the memorial, the
12 markers ... cutting and trimming of lawns and
13 shrubs, trees," on and on and on.

14 So my question to you is -- well, before
15 I even ask that. How many staff members do you
16 have in the cemetery burial or under the
17 jurisdiction of the Cemetery Care Act in your
18 respective agency?

19 COMPTROLLER HYNES: We have nine auditors
20 currently, and we have -- you know, it fluctuates,
21 but we have about eight people who work in the
22 administrative side as well.

23 REPRESENTATIVE DUNKIN: Okay. So a total of
24 20.

1 COMPTROLLER HYNES: Not quite.

2 REPRESENTATIVE DUNKIN: Now, Mr. Comptroller,
3 your assistant comptroller along with yourself
4 stated anywhere from 18 to 23 staff members in
5 your respective office that is over the Cemetery
6 Care Act. You have the sole jurisdiction in the
7 State of Illinois -- not the county, not the
8 local, but the State of Illinois. It is charged
9 in the Illinois Constitution; it's in the statute
10 that you have the sole authority over the care,
11 the maintenance, the graves, the lot, the plots,
12 the cemeteries, the mausoleums.

13 And then it goes into the section of the
14 funds or the pre-need dollars. That's secondary.

15 But the original -- well, it's in the
16 statute. I'm not paraphrasing. That's why I gave
17 you the correct citation. I asked the panel
18 member here, who is an attorney, very noted
19 attorney, if I was articulating that correctly.
20 Right? 760 Illinois Code Statutes, 100 Chapter
21 21, Paragraph 64.2, Section 2. I read you the
22 details of it.

23 So my question is: What happened? How
24 did we get to this point after years -- you've

1 been in office for 11 years. How did we come
2 across this level of atrocity in terms of your
3 staff, 18 or 23 people, how they somehow missed
4 this --

5 COMPTROLLER HYNES: Right.

6 REPRESENTATIVE DUNKIN: -- when a consumer in
7 Illinois reached out to the media, reached out to
8 someone -- excuse me -- saw the bones, saw
9 mountains of bones.

10 How did that happen? Can you
11 extrapolate, sir?

12 COMPTROLLER HYNES: Extrapolate?

13 REPRESENTATIVE DUNKIN: Can you talk about,
14 can you discuss?

15 How it is that you have a staff that is
16 dedicated to cemeteries and funeral homes and
17 under this statute here, that they missed a --
18 almost a half an acre of bones buried in the
19 nation's largest black cemetery on the south side
20 in Chicago, right outside of Chicago. How did you
21 miss that, sir?

22 COMPTROLLER HYNES: Well, your question has a
23 lot of different elements to it. Let me first
24 just clarify again the role of the Comptroller.

1 The role of the Comptroller's Office is to audit
2 trust funds of cemeteries and funeral homes,
3 cemeteries that have pre-need -- that accept
4 pre-need or have perpetual care and funeral homes
5 that do pre-need arrangements as well.

6 The section you mentioned about defining
7 care really speaks to the provision in the statute
8 that allows certain dollars in trust funds to be
9 used for care and maintenance and nothing else.
10 So under the statute, when a trust fund is created
11 for perpetual care, the cemetery's only allowed to
12 use the interest in the cemetery -- in the care
13 fund for maintenance.

14 And so as to clarify exactly what a
15 cemetery can use that interest for, it defined
16 what care means. So it says that you can use the
17 interest in the care fund for mowing the lawn, for
18 maintaining the roads and so forth. You're not
19 supposed to -- you're not supposed to take any of
20 the principal for that purpose. The idea being
21 that the -- the principal is supposed to last
22 forever, perpetual care, and only the interest is
23 supposed to be used for maintenance. To the
24 extent --

1 HONORABLE HOLMES: Who monitors that?

2 COMPTROLLER HYNES: Pardon me?

3 HONORABLE HOLMES: Who monitors that? Who
4 monitors that?

5 COMPTROLLER HYNES: We do. We make sure that
6 only the interest is used for maintenance and that
7 they don't dip into the principal for that
8 purpose. And that is the reason --

9 HONORABLE HOLMES: How do you do that?

10 COMPTROLLER HYNES: We -- we have to make sure
11 that they're only using -- they're only spending
12 interest.

13 HONORABLE HOLMES: But exactly how does that
14 happen? If I'm the cemetery owner, I get money
15 out of my trust account, I say I'm going to use it
16 for maintenance. How is it that the comptroller's
17 office monitors that I'm using it for maintenance
18 and not using it for salaries?

19 COMPTROLLER HYNES: What we do is we look at
20 what their expenditures are for maintenance and
21 what their overall expenditures are, and they have
22 to show to us that they're in some cases using
23 operation revenue for the maintenance and that
24 they're not using principal.

1 Do we, you know, walk through and say how
2 did you pay for that lawn mower? We want a
3 receipt that shows that you used this fund and not
4 that fund. No, we don't. But we make sure that
5 the interest -- that the principal is not invaded
6 and that the interest is dedicated to the
7 expenditures of the cemetery.

8 And I think one of the problems we have
9 fundamentally with the system is that the interest
10 that is generated off the principal in the
11 aggregate is not sufficient to meet operations of
12 cemeteries. And so there is a -- there is a
13 problem looming in the future that, you know, if a
14 cemetery fills up and the perpetual care fund
15 doesn't have enough principal in it and there's no
16 operating revenue coming in, that's where you have
17 a problem with a cemetery that has no viability
18 financially to maintain itself.

19 But the intent of the care fund in the
20 first place was to provide -- to prepare for that
21 situation so that when the cemetery no longer
22 became a viable entity economically, that there
23 were care funds in place to provide perpetual care
24 going forward.

1 Now, back to the question, the language
2 in there that defines care, again, speaks to the
3 fact that it makes it clear in the statute so that
4 cemetery owners know what they can and cannot use
5 the interest money for, the interest income for.
6 They cannot use investment income -- they can only
7 use investment income for care and maintenance.

8 It does not say that there is a duty of
9 care for cemeteries. And it certainly does not
10 say that the comptroller is responsible for
11 policing and monitoring and regulating the
12 operation and maintenance of cemeteries. In fact,
13 the problem is that there's nobody policing,
14 monitoring, and regulating the operations of
15 cemeteries and the proper burial of human remains.

16 REPRESENTATIVE DUNKIN: And that's why --

17 COMPTROLLER HYNES: That is what our
18 legislation--

19 REPRESENTATIVE DUNKIN: That's why this task
20 force is situated the way it is by way of default
21 because your agency quite frankly was asleep at
22 the wheel. You dropped the ball. Your team --
23 your so-called agency that -- from 18 to 23
24 individuals, they dropped the ball on this. So

1 stop trying to dance around it and play games with
2 the people in this state. It was a major affront
3 to the citizens here in the State of Illinois.

4 COMPTROLLER HYNES: Right. But --

5 REPRESENTATIVE DUNKIN: And there's no way
6 you're gonna dance around this reality with the
7 statute here.

8 If your team of 18 to 23 people were on
9 top of their business that the state pays to stay
10 on top of their business, this committee, this
11 task force wouldn't be here. So don't play with
12 us. Don't, you know, manufacturer foolishness as
13 a way to transposing the words into what's cute
14 for you. Because the reality is, your department,
15 that agency, played the citizens in this state on
16 that south side. Your own staff members cited
17 Burr Oak Cemetery specific complaints. Peg Roth.
18 I forget the other one back in May 29th in the
19 Chicago Tribune quoted your staff members for
20 receiving 18 or 22 complaints.

21 COMPTROLLER HYNES: Over ten years, correct?

22 REPRESENTATIVE DUNKIN: Okay. From 2005.

23 That's what your team said.

24 COMPTROLLER HYNES: Right.

1 REPRESENTATIVE DUNKIN: All right. And so
2 they simply stepped back or ignored and did
3 absolutely nothing.

4 Now, you don't think that people are just
5 stupid out here that they can't see that your
6 office simply ignored the needs of people's buried
7 ones. Period.

8 And here you -- your own staff. I have
9 two sheets of your staff's testimony that speaks
10 to calls and complaints that went to your agency.

11 So I then asked for a performance audit
12 to review just that section of your division,
13 Mr. Comptroller. You said you do performance
14 reviews all the time.

15 COMPTROLLER HYNES: No, I said the auditor
16 general does performance --

17 REPRESENTATIVE DUNKIN: Okay. Would you
18 submit to this right here? Are you comfortable
19 with this specifically going to your respective
20 agency to find out exactly what the hell they're
21 doing with our taxpayer dollars if they're
22 supposed to be monitoring --

23 HONORABLE HOLMES: Representative Dunkin, we
24 need to know what you're referring to so that we

1 can post it --

2 REPRESENTATIVE DUNKIN: Excuse me.

3 I posted in the record -- I filed a
4 resolution yesterday, a House resolution asking
5 for a performance audit and review of the staff in
6 the Comptroller's office to find out what they
7 were doing, how they're -- how -- what -- who was
8 supervising them, what kind of management training
9 that they've ever received, and how we came up to
10 this atrocity that's so unique in its kind at this
11 level to this extent in the history of the State
12 of Illinois under your watch.

13 Would you submit to that audit? Are you
14 comfortable with working with us on that
15 performance review audit in your respective
16 agency?

17 COMPTROLLER HYNES: Well, first of all, there
18 were several baseless allegations --

19 REPRESENTATIVE DUNKIN: That's a yes or no,
20 Comptroller.

21 COMPTROLLER HYNES: Representative, if I may
22 address your baseless allegations --

23 REPRESENTATIVE DUNKIN: Of course, it's
24 baseless. You know what, I think--

1 COMPTROLLER HYNES: May I, please?

2 REPRESENTATIVE DUNKIN: Go ahead.

3 HONORABLE HOLMES: Gentleman, we're going to
4 stick to questions and answers.

5 REPRESENTATIVE DUNKIN: Well, let him answer
6 the question.

7 HONORABLE HOLMES: You have a question -- you
8 have a question.

9 Mr. Comptroller, the question is will you
10 work with the Representative on an audit of your
11 office with respect to the resolution that he
12 issued yesterday? So if you can address that
13 question, then we'll move on to the next
14 individuals who -- because there's several members
15 of the task force who would like to ask questions.

16 COMPTROLLER HYNES: Madam Chair, I'd be happy
17 to answer all the question, but I cannot allow an
18 allegation of that nature to be left unchallenged.
19 He just accused me of something, and I need to
20 respond to that.

21 HONORABLE HOLMES: Well, I'll allow --

22 COMPTROLLER HYNES: He doesn't know what he's
23 talking about.

24 HONORABLE HOLMES: I'll allow you to

1 respond --

2 COMPTROLLER HYNES: He doesn't know what he's
3 talking about --

4 HONORABLE HOLMES: But we won't resort to name
5 calling and --

6 COMPTROLLER HYNES: Oh, there's no name in
7 that.

8 HONORABLE HOLMES: Okay.

9 COMPTROLLER HYNES: I just said that it
10 wasn't --

11 HONORABLE HOLMES: So you can respond to his
12 question.

13 COMPTROLLER HYNES: Sure.

14 HONORABLE HOLMES: Then we're gonna definitely
15 move on. Okay.

16 COMPTROLLER HYNES: The role of the
17 Comptroller is clear. It has been historically
18 clear. You can ask previous comptrollers, and I
19 would recommend that you do that.

20 We have authority over the trust fund
21 activity of a limited number of cemeteries and
22 funerals. There are thousands and thousands of
23 cemeteries that don't have a license from us and
24 are not regulated by anybody. And to suggest that

1 by default, because there's an unregulated
2 industry, because the industry is so powerful and
3 has wanted it that way, to somehow suggest that we
4 are by default the police for all cemeteries in
5 this state is wrong and untrue.

6 And we did our job. We put forward --
7 not only did we do our job, but we took immediate
8 action in the situation of Burr Oak. We
9 immediately moved to revoke the license. We put
10 the cemetery in receivership. The trust funds are
11 intact and are in -- full and intact and in the
12 hands of the receiver, and we did our job.

13 Now, to the question of the audits, the
14 auditor general does a compliance audit of the
15 Comptroller's Office every two years, and there
16 hasn't been a material finding in the Cemetery
17 Care Division since, I believe, 1999 or 2000. And
18 even that had something to do with crematories
19 even before they were regulated.

20 The legislature has the prerogative to
21 ask the auditor general for a special audit to be
22 conducted, and if the legislature wants to do
23 that, and the auditor general agrees to do that,
24 we certainly will comply.

1 HONORABLE HOLMES: Okay. Thank you.

2 Now, we're gonna go to Representative
3 Brady who --

4 REPRESENTATIVE DUNKIN: Can I finish up, Madam
5 Chair, or how do you -- you're the chairwoman.

6 HONORABLE HOLMES: Yes.

7 REPRESENTATIVE DUNKIN: I have other questions
8 for him quite frankly.

9 HONORABLE HOLMES: If you can hold your
10 questions, I'd like to let -- allow other members
11 of the task force to answer because we do have
12 only another 45 minutes in our meeting. So I'll
13 allow other members of the task force, and then if
14 we have time, we'll definitely come back --

15 REPRESENTATIVE DUNKIN: Thank you.

16 HONORABLE HOLMES: -- if your questions are
17 not answered by -- or asked by other members of
18 the task force.

19 Okay. Representative Brady.

20 REPRESENTATIVE BRADY: Thank you, Madam Chair.
21 And thank you, Mr. Comptroller, for your being
22 here and that of your staff. I know this is a
23 difficult issue.

24 And for the people hear in attendance and

1 for the news media, I hope they can get this
2 straight. Illinois has had a horrible situation
3 over the last couple of years in the funeral and
4 burial industry. We've had it in the funeral
5 directors trust. We've had it in the (inaudible)
6 services of life insurance to the funds we need.
7 We've had it now in cemeteries.

8 There are some of us that have been
9 preaching in the general assembly for some time
10 that this was a huge problem. I was one of those.

11 And, Mr. Comptroller, I respect you. I
12 have attempted to try and work with you and your
13 division. But, you know, to say you have limited
14 authority, that's not -- that's not true. You
15 have all the authority when it comes to the
16 cemetery care and burial trust in this state.

17 COMPTROLLER HYNES: Yeah, the burial trust.
18 Correct. You're correct about that.

19 REPRESENTATIVE BRADY: Cemetery care. And I'm
20 not gonna trade --

21 COMPTROLLER HYNES: So the Department of
22 Public Health has no -- has no authority over
23 burials in the handling of human remains; is that
24 correct?

1 REPRESENTATIVE BRADY: That's not what I said.

2 COMPTROLLER HYNES: No. Do they have any
3 authority --

4 REPRESENTATIVE BRADY: I said you have -- no,
5 wait.

6 You said you have limited authority. I
7 don't see it that way. You have all the
8 authority. The cemetery care --

9 COMPTROLLER HYNES: Do -- does the Department
10 of Public Health --

11 HONORABLE HOLMES: Mr. Comptroller --

12 COMPTROLLER HYNES: -- have authority over
13 the --

14 HONORABLE HOLMES: Mr. Comptroller --

15 REPRESENTATIVE BRADY: We can agree to
16 disagree and move on.

17 HONORABLE HOLMES: I would like to keep it to
18 the task force asks questions; the witnesses
19 answer the questions. And you know, let's keep it
20 civil.

21 REPRESENTATIVE BRADY: And I will -- I will be
22 as -- move as quickly as I possibly can.

23 Next, Senate Bill 1682. For you to come
24 here and take a shot at Governor Quinn, in my

1 opinion, my humble opinion, not of this task
2 force, that somehow that bill, because he
3 mandatory vetoed it, is going to have some pivotal
4 outcome because of his action, I certainly don't
5 see it that way.

6 I stood up on the house floor and asked
7 the sponsor carrying the legislation for your
8 office, don't run this now. We have this task
9 force. We have a task force that I put through
10 and have been working on. Let the task force do
11 their work, and then we'll move forward with
12 recommendations. That's what they're charged
13 with. Every other task force we do in the general
14 assembly is allowed to work, and then we respond
15 to what the findings are of a task force.

16 This particular bill is simply fiduciary
17 responsibility change in midstream because of a
18 funeral directors' trust problem that, quite
19 frankly, sir, there is no way around it. You
20 licensed the Illinois Funeral Directors Trust to
21 operate, which is now some conservative
22 \$60 million in the hole affecting 49,000
23 Illinoisans across the State of Illinois.

24 Now, you pulled out of that saying you

1 never should have licensed them, and the
2 comptrollers before you never should have licensed
3 them just before you see the storm hit the shore.
4 We can debate that at a later time. The
5 chairwoman wants me to stay on track, and that's
6 what I'm trying to do.

7 HONORABLE HOLMES: Ask your question.

8 REPRESENTATIVE BRADY: The other thing that
9 troubles me greatly is I don't -- no one, and
10 myself included, is not trying to say you can
11 prevent everything. You can't. You can't prevent
12 bad apples from doing bad things. But there's
13 enough -- I think within that Cemetery Care Act
14 more could have been done. And just in one
15 section, Section 15, the revocation of licenses,
16 the licenses -- the licensee if they violate in
17 any provision as long as they have due process and
18 you give them a direction, they don't follow that
19 direction, you could revoke the license.

20 In 2007 when Burr Oak had trust problems,
21 had discrepancies in their trust and you audited
22 them and you found problems, you could -- you
23 could have set the whole criteria and challenged
24 them on the license issue.

1 But I would just simply say that in a
2 hearing that occurred on July 30th of the
3 Consumer Protection Committee Joint House and
4 Senate, Ms. Peg Roth was testifying in that
5 hearing. She indicated that there was some 12
6 inspections made by the Comptroller's Office this
7 year, 2009, when they went out to Burr Oak
8 cemetery. And she indicated that those nine field
9 auditors, inspectors, whatever the correct title
10 is that you have, they go out and they make the
11 fiduciary inspections. But they always go through
12 the cemetery. They have cameras. They can look
13 at things. They can take pictures.

14 Now, this is May 22nd of 2009 your last
15 auditor inspector is at Burr Oak Cemetery making
16 an inspection.

17 Now I toured the cemetery in early July
18 at Burr Oak in my role as a funeral director and
19 former county coroner with the Sheriff's
20 Department of Cook County looking at things. We
21 all agreed on one thing. There is no way, no way
22 this happened overnight. In fact, they agreed
23 upon one thing: That this probably took years in
24 which they were doing these type of things.

1 Twelve people from the office swinging
2 through the cemetery, do you think they ever got
3 out of their car and looked at anything around the
4 cemetery?

5 COMPTROLLER HYNES: Well, again, there are a
6 lot of elements to your question. The last part I
7 would say is, you know, in addition to our
8 auditor, who audits the books of the cemetery,
9 that are actually held at a different location
10 than Burr Oak, yes, did go to the cemetery and --
11 and, you know, looked at the grounds, cemetery
12 grounds, as did thousands of people visiting loved
13 ones as did others.

14 Now, the part though that you're -- I
15 think you're overstating is this. The Cemetery
16 Care Division -- and this goes back to your
17 original point. We have nine auditors. There are
18 over 800 cemeteries. We have to do annual
19 report -- annual auditing.

20 And you mentioned about should the -- you
21 said discrepancies in the audit in their trust
22 funds. They had made some late deposits into the
23 trust fund. We addressed -- we confronted them
24 about it. We checked with them quarterly to make

1 sure the deposits were made, and they were in fact
2 made. So for all of the horrible discoveries that
3 were uncovered at Burr Oak, the one thing that was
4 not out of line was their trust fund. Their trust
5 fund was intact, was in whole, and that's because
6 of the auditing we did.

7 The last thing I want to say is this.
8 You know, to your point about, you know, this task
9 force and whether we should take a -- you know,
10 take a slow approach and look at it more
11 thoroughly.

12 I was never against a task force, the
13 funeral home task force that you were for. I
14 certainly am not against this commission. I think
15 it's important to study issues.

16 But I am of the philosophical belief that
17 certain problems demand immediate action. And my
18 point was that the legislation we put forward --
19 within 48 hours we drafted legislation to address
20 the unregulated cemetery industry. And we had
21 sponsors. We had advocates. We had people moving
22 forward on this bill. And someone, somewhere
23 decided to kill that legislation because they
24 thought it would be a better idea to take six

1 months and study the problem.

2 What I was saying is let's study the
3 problem for six months. Let's study it for
4 another year. That's fine. But they're not
5 mutually exclusive ideas. You can have immediate
6 action that brings the industry under immediate
7 regulation and then step back and fine-tune it or
8 expand it or improve it.

9 And the same with the Funeral Home
10 Association. The Governor's veto -- I don't know
11 why he wanted 30 more days for it to go into
12 effect, but the reality is that it actually delays
13 it for several months until the general assembly
14 can either override it or not.

15 REPRESENTATIVE BRADY: Right.

16 COMPTROLLER HYNES: So, again, immediate
17 action was required, and we didn't get -- we don't
18 have immediate action.

19 REPRESENTATIVE BRADY: Immediate action wasn't
20 required. It was window dressing at best. Okay.
21 What you did was you were attempting to change
22 midstream on funeral homes their deposits in
23 financial institutions to make a certain level.
24 And so after the Funeral Directors Trust, when

1 they go back to local financial institutions and
2 make deposits, now they're gonna have to take
3 those out and potentially pay penalties.

4 I'm gonna move on from that.

5 I think it's -- I think it's important --
6 you opened this door, so I'm gonna take the
7 opportunity, Mr. Comptroller.

8 Maybe I haven't said it enough. But I
9 have proposed legislation in this session, early,
10 early on and worked on it last year. And it was
11 met with resentment by the cemetery industry, some
12 of my own colleagues in the funeral home industry,
13 for different reasons and things they didn't
14 understand, but that didn't stop them from
15 spreading falsehoods throughout the capital.
16 That's part of our business. Those things happen.

17 But you know what. It was a particularly
18 tough year in the funeral industry at that point
19 for you, and it got worse with the Burr Oak
20 situation when that shoe dropped.

21 But I came to you, to your office, and I
22 worked with Kevin Shoeben, and I worked with this
23 gentleman. I worked with you. And Percy has been
24 sitting in my office before. You know what? And

1 we had and they had the fire in their belly to go
2 after and make some changes in licensing that I
3 suggested, continuing education that I suggested,
4 deposit 100 percent trust for funeral and
5 cemeteries, and the list goes on.

6 We worked. Our first meeting was in
7 March, April. We met months working on this. We
8 had a great product I thought. And at the end of
9 the day, it gets close to showdown at the O.K.
10 Corral at the General Assembly. I get handed two
11 separate bills, one that has the window dressing
12 for 1682, and the other one that had my ideas.
13 And it was, go get 'em, Dan Brady.

14 So I called you. And I didn't get a
15 reply. And I asked Kevin Schoeben to personally
16 contact you on several different occasions. I got
17 no replay.

18 I got a replay when the House Minority
19 Leader called your Chief of Staff and said, will
20 you see Dan Brady? And I appreciate that. And we
21 sat down and we talked. And you said, I don't
22 oppose any of these ideas, Dan Brady -- to be fair
23 to you, Mr. Comptroller. I don't oppose any of
24 this.

1 COMPTROLLER HYNES: Right.

2 REPRESENTATIVE BRADY: I said, how come you
3 won't stand up with me and fight for real reform?
4 Take them on. And you know what you told me?
5 There's a process here. I don't control the
6 process.

7 I said, you know what, with my knowledge
8 in the industry, your responsibility by statute,
9 we can really go out and make changes and protect
10 consumers. You said, I'm all for it, Dan.

11 Well, Mr. Comptroller, I could have used
12 your help. And now looking back, I got a feeling,
13 since you've incorporated some of my ideas in your
14 emergency legislation that had to be filed -- like
15 it's closing the barn door after the horse is
16 gone. It's a little late now. I just have the
17 feeling that maybe it would have behooved you to
18 stand up and work with me on behalf of the people
19 of Illinois to make real reforms and take on the
20 cemetery industries or the funeral home industries
21 or anybody else that was gonna stand in the way.

22 COMPTROLLER HYNES: Right. Well --

23 REPRESENTATIVE BRADY: And I wish you would
24 have done that.

1 COMPTROLLER HYNES: Well, I said to you then
2 when we talked that I supported your bill. We had
3 a bill --

4 REPRESENTATIVE BRADY: And I was very fair to
5 you, and I said you did.

6 COMPTROLLER HYNES: Yeah.

7 REPRESENTATIVE BRADY: The concept.

8 COMPTROLLER HYNES: I supported your bill --

9 REPRESENTATIVE BRADY: I needed a little -- I
10 needed a little help in the arena, sir, taking on
11 the very industry you say that lobbied hard
12 against it.

13 COMPTROLLER HYNES: Yeah. But,
14 Representative, I supported your bill, and you
15 supported our bill, I think, and --

16 REPRESENTATIVE BRADY: No.

17 COMPTROLLER HYNES: And what I said to you was
18 I don't control which bills get called and which
19 don't.

20 And, yes, I mean, a lot of the ideas that
21 were in that bill are in our bill because, again,
22 I supported it then; I support it now. But we
23 don't control which bills get called, and you were
24 trying to make -- you were trying to suggest that

1 I had some magic lever I could pull to get your
2 bill called --

3 REPRESENTATIVE BRADY: I --

4 COMPTROLLER HYNES: When in fact -- wait.

5 REPRESENTATIVE BRADY: Sir, that's not fair.
6 I did not suggest that.

7 I had this misconceived notion that the
8 Comptroller, elected official of the People of the
9 State of Illinois who's in charge of cemeteries in
10 the State of Illinois could have stood up with
11 somebody who knows the industry as a funeral
12 director and former county coroner when they agree
13 on great ideas and said, you know what, let's go
14 take them on. We'll make a change for the people
15 of Illinois. We'll do something right. We're
16 gonna take and made real reforms.

17 You didn't want to do that. You told me
18 you don't control the process.

19 COMPTROLLER HYNES: I said --

20 REPRESENTATIVE BRADY: And I got a feeling you
21 might have been able to help in the process.

22 COMPTROLLER HYNES: Madam Chair -- we don't
23 control the bills that are called.

24 I support your bill. And listen --

1 listen --

2 HONORABLE HOLMES: Do you have a question?

3 One more.

4 REPRESENTATIVE BRADY: I have a couple --

5 REPRESENTATIVE DUNKIN: He hasn't asked a
6 question.

7 REPRESENTATIVE BRADY: That's okay.

8 Mr. Comptroller, we're gonna agree to disagree. I
9 tried to say, you know what, maybe we'll go back
10 to working together next time around on behalf of
11 the people.

12 HONORABLE HOLMES: One more quick question,
13 Representative Brady.

14 REPRESENTATIVE BRADY: Thank you very much.

15 In the legislation that you filed, I
16 believe it was Senate Bill 662, after the Burr Oak
17 situation had occurred, you had a specific
18 provision in there, you had some of my provisions
19 in there. So thank you for that. I guess
20 imitation is the best form of flattery.

21 But one of your areas was providing a
22 cost-of-living increase for public aid burials in
23 the state. Can you tell me how that would have
24 helped in the Burr Oak situation?

1 COMPTROLLER HYNES: Well, I actually believe
2 that part of the problem that was uncovered in the
3 Burr Oak situation or just in the stories that
4 have followed is that there is an inequity that
5 exists in the burial -- in the burial of loved
6 ones. And that is, that if you have a lot of
7 money, you can pay for an expensive burial, a
8 beautiful funeral, expensive burial, and be
9 located in a beautiful cemetery with flowers and
10 round-the-clock care.

11 But if you are poor and you don't have
12 the means and you rely on public aid burials, you
13 get a very minimal amount of money to spend on
14 your burial, and that's why there is often, you
15 know, unfortunately burial grounds that are not
16 maintained, and people are put in potter's fields,
17 and people are not respected and their burial is
18 not a dignified one.

19 And I've been saying this for years that
20 I believe part of that is if we can increase the
21 Medicaid burial allowance I think we can provided
22 a more proper burial for all people no matter what
23 your means are and what your station in life is.
24 I think that everybody deserves that.

1 REPRESENTATIVE BRADY: Are you aware what the
2 public aid allotment is now for burials?

3 COMPTROLLER HYNES: \$552 I believe.

4 HONORABLE HOLMES: Thank you very much,
5 Representative.

6 REPRESENTATIVE BRADY: No -- Madam Chair, if I
7 can just follow-up with one other -- one other
8 question, I'd greatly appreciate it.

9 In closing, Mr. Comptroller, looking at
10 that, were you aware of the fact -- I think you
11 must be because you've been quoted. You're aware
12 of the fact that the state has huge financial
13 indebtedness, aren't you? You're very aware of
14 that. You've made that known throughout the
15 public. Correct?

16 COMPTROLLER HYNES: Correct.

17 REPRESENTATIVE BRADY: Do you have any idea
18 where the money is gonna come from for an increase
19 in public aid funerals?

20 COMPTROLLER HYNES: I put forward a budget
21 plan that would allow for -- for us to meet our
22 basic needs.

23 REPRESENTATIVE BRADY: Do you realize the
24 increase that was given to funeral directors and

1 cemeteries in '06 and '07 of legislation I
2 cosponsored of an increase in public aid dollars
3 at that time. So they had an increase in '06 and
4 '07. Are you aware of that?

5 COMPTROLLER HYNES: Right. Go ahead. Is
6 there a question?

7 REPRESENTATIVE BRADY: Yeah. My point is we
8 increased that in '06 and '07. I think colleagues
9 of mine in the funeral business and cemetery
10 business will tell you, look, instead of
11 increasing under the legislation some 50-some
12 dollars for burial and funeral, how about paying
13 me what you owe me now, since you're six months
14 behind, eight months behind. And I'm not saying
15 that's your fault. I'm just simply saying before
16 we increase public aid burial dollars, we need the
17 fact to be able to have the revenue in which to
18 pay for it. I think my colleagues would much
19 appreciate the bills being paid sooner.

20 And as far as some analogy that because
21 where you're buried in the cemetery makes you more
22 of a prime target for this type of horrific thing
23 to occur of not maintaining graves and doing legal
24 disinterments and the list goes on, I don't know

1 how increasing the dollars for public aid burial
2 once someone is interred in a cemetery is going to
3 prevent that type of thing from happening. I
4 don't see the correlation.

5 And I also thought it was very
6 disrespectful and just hard to believe that the
7 Funeral Directors Association, after being part of
8 the problems they've had in the State of Illinois
9 with the trust problems in the state, their big
10 initiative was to come to the legislature and ask
11 for more money when we're \$8 billion in the hole.

12 And then you're proposing in your
13 legislation that we get an increase for them when
14 they had one in '06 and '07. After they can't
15 account for \$60 million in trust, we're supposed
16 to increase the allotment for public aid burial.
17 I don't get the concept.

18 HONORABLE HOLMES: Representative, is there a
19 question --

20 REPRESENTATIVE BRADY: Thank you for being
21 here. I think the Madam Chair would like me to
22 move on -- I just have this funny feeling -- in my
23 comments. Thank you for being here, and I look
24 forward to working with you in the future.

1 HONORABLE HOLMES: Senator Jones.

2 SENATOR JONES: Thank you, Madam Chair.

3 Just a few questions for you,
4 Comptroller. Getting back to May 22nd when your
5 Assistant Comptroller stated that there were some
6 auditors out at Burr Oak and also at Park
7 Cemetery -- Cedar Park on 127th and Halsted, the
8 same owners as Burr Oak. They stated that they
9 did a ride-around, a look, an audit at the
10 cemetery.

11 Now, I understand that your office has a
12 limited, you know, control over cemeteries. But
13 our Sheriff, Cook County Sheriff, Tom Dart, stated
14 that the conditions in Burr Oak were so bad that
15 you did not even have to get out your car to see
16 the issues that were going on at that cemetery.

17 Now, the limited authority that you guys
18 have over cemeteries, does it allow for you all to
19 look at the records of the cemetery? Because it's
20 been statements that records wasn't kept properly.
21 Records were stacked on top of each other so long
22 that they binded together. Does your office have
23 that authority to look at the records?

24 COMPTROLLER HYNES: Again, the point about,

1 you know, people going through the cemetery, I
2 mean, our auditor went through there but so did
3 thousands of people visiting their families and
4 funeral directors who were conducting funerals and
5 even newspaper reporters and others. So, you
6 know, I'm not sure it was something that was --
7 that could be discovered just with a glance.

8 In terms of cemeteries -- cemeteries are
9 required to keep burial records, and clearly the
10 Burr Oaks Cemetery was in violation of that and
11 was not keeping proper records. One of the things
12 we do in this office -- or in our legislation is
13 to require them, not only to maintain records
14 internally, but to provide the consumer with the
15 proper records and to file them publicly with the
16 Recorder of Deeds. Because I think part of the
17 problem is, if left to their own devices, as we
18 see, you know, they're not always, you know,
19 keeping proper records. And that's -- that's
20 something that has to change, and our legislation
21 will do that.

22 SENATOR JONES: I agree with you a hundred
23 percent.

24 Now, going back to '07, your Assistant

1 Comptroller stated that no monies were deposited
2 into the trust fund for the year '07. You stated
3 that monies were. Could you --

4 COMPTROLLER HYNES: Yeah, what we said was --
5 there was a -- there was a time when they were not
6 making deposits. When we confronted them with
7 them, then we checked on a quarterly basis with
8 them to make sure the deposits were made.

9 So you're correct. There was a -- there
10 was a year that they did not make deposits because
11 they were undergoing new management, and the new
12 manager didn't understand the procedures. We
13 confronted him, and they worked on a quarterly
14 basis to get it paid in full. And at the time,
15 you know, the trust funds were intact and paid in
16 full.

17 SENATOR JONES: Okay. Well --

18 HONORABLE HOLMES: How did you ensure that
19 they were paying the correct amount in arrears?

20 COMPTROLLER HYNES: What we do is in our audit
21 we -- we track the sales and make sure that for
22 every sale that certain -- the correct percentage
23 is put into the care fund or in a pre-need case,
24 and we look at the bank records to certify that.

1 HONORABLE HOLMES: So it was all paper?

2 COMPTROLLER HYNES: Yes, as opposed to --

3 HONORABLE HOLMES: As opposed to going out to
4 the cemetery eyeballing anything that they were
5 doing. It was all paper --

6 COMPTROLLER HYNES: Right.

7 HONORABLE HOLMES: It was all what they
8 reported to you.

9 COMPTROLLER HYNES: Well, exactly. I mean,
10 our role is to audit the pre-need sales and the
11 perpetual care fund, not at-need sales and not
12 certainly -- certainly not the method of burial
13 and how to handle bodies and so forth.

14 Ours -- in fact, in this case the records
15 are kept at Cedar Park because that's where their
16 CFO's office is. Nevertheless, our auditor would
17 go to the cemetery anyway, but the audit actually
18 is done at Cedar Park because they have their full
19 set of records in one corporate office, which is
20 allowed under law.

21 HONORABLE HOLMES: Is that where they're
22 currently kept, Cedar Park?

23 COMPTROLLER HYNES: Yes.

24 I'm sorry.

1 SENATOR JONES: One more question.

2 Just for the record, the legislation that
3 you tried to push through back in July, put it
4 together in 48 hours, I think was a total
5 disrespect for the people that have been dealing
6 with the Burr Oak situation. That someone, some
7 person that stalled the legislation was myself
8 because I was the sponsor for the bill. I think
9 we needed more time to look back and see all the
10 details, what went wrong, what happened, like what
11 we're doing right now. And through this
12 committee, you know, I myself have gathered a lot
13 of knowledge of what went wrong or have formed my
14 own opinion to see what went wrong and the steps
15 that we need to take forward to make this a better
16 legislation.

17 COMPTROLLER HYNES: I wish you would have told
18 me that before you asked if you could sponsor my
19 bill. I understand --

20 SENATOR JONES: Well, your office did not
21 contact me until you were done with your
22 legislation.

23 HONORABLE HOLMES: Thank you very much,
24 Senator.

1 Representative Davis.

2 REPRESENTATIVE DAVIS: Thank you. Thank you,
3 Madam Chair.

4 I intend to be extremely respectful of
5 the Comptroller's office. He deals with some very
6 sensitive issues and some that are very difficult,
7 and one, of course, is deciding who to pay and
8 when based upon the limited funds coming into the
9 State of Illinois today. A lack of sales tax, a
10 lack of income tax. The revenue is down, but the
11 bills still have to be paid.

12 So I know that's very difficult on you
13 and your staff, and I commend you for the effort
14 that you've put forth to be fair with those funds
15 and who gets paid, the Medicaid bills and so
16 forth.

17 I have to say with my senator -- he was
18 the Senate sponsor, and as you know, I was the
19 House sponsor. And my belief, of course, was too
20 many times as legislators we put forth a study or
21 task force, and for some reason there is little
22 outcome.

23 And that's one of the reasons that I
24 wanted to hurry and give some sense of salvation

1 to those people who felt they had been violated.
2 Criminal acts had occurred. Their families'
3 bodies -- or they didn't know where they were.
4 They couldn't find them. So my thought, of
5 course, was to do something right away to make
6 sure the culprits of these acts were treated with
7 the strongest arm that the criminal law allowed.

8 I also believe that there are some red
9 flags that go up based upon what happens or who
10 calls who. Like someone stated for Burr Oak that
11 they called the Alsip police. Well, now according
12 to the documents I read, they should have called
13 the coroner. Well, who would know to call the
14 coroner if you see a bone somewhere? I wouldn't
15 know, you know.

16 But my question is -- and you've answered
17 it, but I'm not sure that I comprehend.

18 If a cemetery is burying people,
19 shouldn't those funds be coming in on a regular
20 basis? And if they don't, isn't that a major red
21 flag? And if so, Mr. Comptroller Hynes, what
22 happens?

23 COMPTROLLER HYNES: Right.

24 Well, I mean, there are two different

1 sources are funds and two different types of
2 burials, at-need and pre-need. If there are
3 at-need burials, you know, clearly monies would be
4 coming in. One of the allegations is that the
5 burials that were being conducted by these
6 employees were actually off the books, cash sales.
7 But they were at-need, which is not really what we
8 regulate or audit.

9 Pre-need sales, yes, would also, you
10 know, depending on their marketing efforts and
11 the -- the business plan of the cemetery, yeah,
12 you would think that there would be, you know,
13 incoming revenues on a regular basis, but not
14 necessarily. And certainly we don't study the
15 trends of whether money should be coming in. I
16 mean, we just look at what actually does come in
17 and whether they're putting the correct amount
18 into the trust fund. You know, I don't think
19 there's anything we can look at to say, well, I
20 don't know why your sales have dropped 40 percent
21 here --

22 REPRESENTATIVE DAVIS: But how could you tell
23 if a correct amount was coming in or not? What
24 tells you if it's a correct amount?

1 COMPTROLLER HYNES: Well, again, we have -- we
2 have to look at the contracts that they have for
3 pre-need. You're talking about pre-need sales?

4 REPRESENTATIVE DAVIS: I'm talking about any
5 burial at a cemetery.

6 COMPTROLLER HYNES: Okay. If it's at-need --
7 if somebody's loved one dies and they the next day
8 go to a funeral home or cemetery or both and make
9 arrangements, that whole transaction is -- is not
10 regulated by our office. That is an at-need sale.
11 So those sales and those proceeds, you know,
12 wouldn't even enter into our auditing process.

13 If somebody makes the arrangements in
14 advance of death, then they are required to have a
15 license with our office, and they're required to
16 put a portion of those proceeds into a trust fund.
17 And then we audit those trust funds, and then we
18 make sure that for each sale the proper amount is
19 put into the trust fund and that the trust fund is
20 intact.

21 REPRESENTATIVE DAVIS: Okay. I appreciate
22 that.

23 You said you have closed up several
24 cemeteries across the State of Illinois. Have any

1 of these been African-American cemeteries?

2 COMPTROLLER HYNES: I would have to check
3 honestly, Representative. In terms of the
4 ownership you mean?

5 REPRESENTATIVE DAVIS: The ownership -- for
6 example, you know we're usually buried separately.
7 I don't know if you know this or not, but black
8 people and white people are not usually buried
9 together unless they're married or something.

10 The cemeteries that you closed up, do you
11 know if any of them were cemeteries where the
12 majority of the people being buried were
13 African-American? You don't know.

14 COMPTROLLER HYNES: Well, again, I mean, I
15 don't really study the -- you know --

16 REPRESENTATIVE DAVIS: Okay.

17 COMPTROLLER HYNES: -- the racial makeup of
18 the cemeteries. But, you know, we have had
19 cemeteries in the area that we've had to either,
20 you know, issue penalties and fines against or
21 some that we've actually put out to receivership
22 and moved them into proper hands.

23 So there are -- I mean, I think it cuts
24 across racial lines and geographic lines.

1 REPRESENTATIVE DAVIS: Okay. Thank you for
2 that.

3 Two more things, Madam Chairman, because
4 I know you're moving. I see your eyes over here.

5 My understanding is that sometimes a
6 person makes arrangements with the funeral home --
7 well, that's pre-need I would imagine. And then,
8 say when their money was lost, something happened
9 there, what happens to that? How do they bury? I
10 mean, didn't we have some -- something happen with
11 Oppenheimer who was in charge of their funds?
12 Will they still get the opportunity to bury their
13 loved ones?

14 COMPTROLLER HYNES: Are you talking about the
15 funeral home --

16 REPRESENTATIVE DAVIS: Yes.

17 COMPTROLLER HYNES: The IFDA, the funeral home
18 directors where their trust funds --

19 REPRESENTATIVE DAVIS: That's correct.

20 COMPTROLLER HYNES: To the credit of funeral
21 homes, even though they lost large amounts of
22 money in these investments -- in this investment
23 practice and the accounting scam, the funeral
24 homes have lived by these contracts and have

1 actually honored the contracts of people who
2 entered into them. I think we're talking about
3 the same thing.

4 REPRESENTATIVE DAVIS: Yeah, we are.

5 And since Burr Oak is closed, I have a
6 director sitting here with me. I guess I could
7 ask him -- a cemeterian. I apologize.

8 I wanted to know what happens to these
9 bodies. They tell me they're running out of space
10 to keep these bodies. You know, how long -- if
11 Burr Oak is closed, where are they burying these
12 people? If these people have already paid, made
13 arrangements for Burr Oak -- and I'm glad it's
14 closed for the reason it's closed, but what
15 happens to these bodies?

16 COMPTROLLER HYNES: Well, in the situation of
17 just Burr Oak being temporarily closed?

18 REPRESENTATIVE DAVIS: That is correct.

19 COMPTROLLER HYNES: I have -- I think there
20 are some other cemeteries who are working
21 cooperatively to accommodate --

22 REPRESENTATIVE DAVIS: They're making
23 arrangements?

24 COMPTROLLER HYNES: Yes.

1 REPRESENTATIVE DAVIS: Okay. I appreciate --

2 COMPTROLLER HYNES: Again, to the credit of
3 those who are doing that.

4 REPRESENTATIVE DAVIS: And in reference to the
5 amount of dollars for burying the indigent, I
6 agree that it should be increased. I know that
7 some cemeterians are burying people at a loss.
8 First of all, it's a loss because it's not enough
9 money to properly maintain those grounds and pay
10 employees. And the other reason it's a loss is
11 because it takes the Comptroller forever to pay
12 the bill.

13 COMPTROLLER HYNES: Right. And I mean I think
14 that -- going back to Representative Brady's
15 point, I mean, there's something actually we might
16 actually agree on, which is that we have to get
17 up-to-date on our payments which is why we have to
18 address the fiscal situation at home --

19 REPRESENTATIVE DAVIS: We need a tax increase.
20 We may as well say it. We may as well put it on a
21 flag. We need a tax increase in the State of
22 Illinois. If we don't do it, we're going to
23 continue to have these gruesome problems.

24 HONORABLE HOLMES: That's another task force.

1 REPRESENTATIVE DAVIS: My final comment -- I
2 know.

3 My final comment is this task force is
4 hard working, and it is nothing like some of the
5 others. They have an end date. They plan to
6 present a report. They're here. They're
7 listening to testimony. We've had some great
8 witnesses with some significant information to
9 help us make decisions. And I thank you,
10 Mr. Comptroller.

11 HONORABLE HOLMES: Thank you, Representative.

12 Dr. Arnold.

13 DR. ARNOLD: Hi. I am Dr. Damon Arnold, the
14 Director of the Illinois Department of Public
15 Health.

16 Comptroller Hynes, thank you for your
17 testimony before the commission today to address
18 several of the issues.

19 One of the things that -- there are about
20 four different points I want to make, but they're
21 going to be succinct because I know we have a
22 time -- time constraint.

23 The one thing is that I sort of linked a
24 few statements together. One being immediate

1 action is required. And then it took years to get
2 to this point of doing immediate action, and that
3 we need to have a disaster sometimes to push us
4 forward to meet the needs of what people want.

5 So I'm trying to figure out how that
6 figures into a 30-day increase in the amount of
7 time for the passing of this fiduciary
8 responsibility that's so important that took years
9 to get to.

10 And, also, if I were to apply the same
11 standard to what I'm dealing with right now with
12 the H1N1 influenza outbreak, I hope I don't have
13 to wait for a tragedy to respond to develop a
14 system that's going to respond to that. So
15 it's -- you know, that was one of the points I
16 wanted to make is that maybe we need to be doing
17 things before tragedy becomes our trigger point
18 for action.

19 The second thing is that we were talking
20 also about the Department of Public Health's role
21 and the Illinois Department of Finance and
22 Professional Regulation. Those two departments
23 actually are involved in this also.

24 However, you know, from the Public Health

1 Department's perspective, we deal with health care
2 issues related to human remains. Normally, they
3 are kept within the ground, and we don't deal with
4 that particular issue. Once someone is brought to
5 the surface, there have been several barriers that
6 have been broken. One is the trust of the people
7 that actually have loved ones buried there. The
8 second one is the level of caretaking that I feel
9 was very eloquently put by Representative Dunkin
10 as far as the fiduciary responsibility and also
11 Mr. Brady -- Representative Brady. So that has
12 been broken as well.

13 And we then open up into an arena of
14 criminal activity that takes it outside of the
15 purview of public health from the perspective of
16 some type of responsibility for what is going on.
17 So here we are. We're sitting here with a system
18 that has somehow not met the needs of either the
19 people, the fiduciary responsibilities of breaking
20 the ground, and the criminal justice system
21 compliance.

22 We also have an issue -- the third thing
23 is the issue of you saying that you have 16 staff
24 members basically. And the question I have is are

1 there enough members to actually perform this
2 function adequately and to cover the necessary
3 grounds that need to be covered to make sure all
4 three of those levels stay and remain intact.

5 With the Illinois Department of Finance
6 and Professional Regulation, I have had a very
7 long-standing relationship with that particular
8 department. I know that correctly -- it's
9 correctly said that the director now is doing an
10 incredible job with that institution. My
11 licensure depends on it.

12 I'm actually a member of the military,
13 served two tours in Iraq, gone through a lot of
14 those things with the military. We also license
15 the people who are EMTs and paramedics through our
16 agency. But all of the other responsibility runs
17 through that department for licensure. They are
18 experts at that particular area, and it should be
19 noted that that is one of their regular
20 responsibilities. They handle not just thousands
21 of cemeteries, but millions of nurses, doctors,
22 people who are actually licensed within the state,
23 and do it very well.

24 If there are sanctions that are brought

1 forward, they actually address them. They do not
2 allow practitioners to go along and still practice
3 in a situation where malfeasance, malpractice is
4 in place. By doing that, they safeguard the
5 public and safeguard us from harm in institutions
6 of care.

7 Within the institution of the funeral
8 business, there should be the same kind of
9 protection and care because not only is he
10 protecting that individual patient, but he's
11 protecting the family that can suffer the
12 consequences of this person's demise or premature
13 demise.

14 Similarly in this situation where we have
15 people interred, if they are disrupted, they also
16 have an impact on families. That's why we're
17 here. If people were not here to feel the pain
18 and the suffering, the people who are in the
19 ground have departed and gone on to other
20 dimensions with their maker, and we are here left
21 behind to determine what kind of impact was left
22 on the families that have had this situation
23 breached in their life, in their life span.

24 So that is one of the things we are

1 considering as well, where that level of
2 responsibility should lie and where it should
3 be -- where -- who should be taking care of that
4 particular issue about licensure because we've
5 heard many -- a lot of testimony about the need
6 for licensure.

7 Also, this one other point I wanted to
8 bring up is that with these statutory
9 responsibilities, it appears that a lot of effort
10 has gone forward to try to rectify the situation
11 over time, but we're still here dealing with the
12 situation where we have not been able to regulate,
13 monitor, or report these infractions that are
14 occurring. We don't know what the extent of it
15 is. We only know what's before us, what has
16 happened in Burr Oak. And this is one of those
17 situations where we have got to take care of those
18 people.

19 My particular situation being on the
20 panel is not just here to look, listen to a series
21 of facts, and come to some conclusions or make
22 some speculation, but it's also -- because my wife
23 actually has 13 family members who are at Burr
24 Oak. They're dealing with that situation within

1 the family now. So it's not something that is so
2 removed from people on this panel. Other people
3 on this panel has been affected by this as well.

4 So it's not just a set of regulations,
5 not just a set of, you know, what should we have
6 done. It's more a set of a broke -- of a break, a
7 breach of trust that the people have in the
8 process. So I just want -- if you have any
9 comments along any of those lines, please feel
10 free to make them.

11 COMPTROLLER HYNES: Well, I -- first of all,
12 my sympathies to you and your wife because of your
13 personal involvement in the betrayal of trust that
14 you have experienced yourself. This is a very
15 emotional issue, and, again, it not only impacts
16 anyone who has family members there, but I think
17 it speaks to a larger problem, both of an
18 unregulated industry and an inequitable system of
19 burial. And I think all of those things have to
20 be addressed, and I think that your remarks speak
21 to the comprehensive approach that you're taking
22 on this task force, and I commend you for that.

23 The only thing I would comment on -- to
24 what you said was that when you mentioned about --

1 I said that sometimes it's a tragedy that would
2 spark a movement to actually bring about reform.
3 But certainly I didn't wait for a tragedy. You
4 know, some of our reforms of the past that were
5 defeated were an attempt to expand the regulatory
6 oversight of the industry. Imposing a duty of
7 care and maintenance on cemeteries was something
8 we fought for and were unfortunately not
9 successful on.

10 But, again, I think that you bring a, you
11 know, a broad view of this and certainly a
12 personal dimension to it, and I appreciate that.

13 HONORABLE HOLMES: Thank you very much.

14 Mr. Cage has a question. And before you
15 ask your question, Mr. Cage, just for logistics, I
16 know that there are many members of our task force
17 that want to ask you questions. I'm going to ask
18 the members if we can keep it very brief because
19 we are past our four o'clock stop time. We still
20 have three more witnesses who need to testify. So
21 I want to put that out there for you because I do
22 need, you know, as many of you to stick around for
23 that testimony as possible because we will hear
24 that testimony today. So make sure that it's

1 brief so that we can get through all the
2 testimony.

3 And I would say to those of you who are
4 waiting to testify, thank you for your patience.
5 As you know, this is a very serious issue. This
6 is our last meeting of the task force. And so we
7 beg your pardon that it's taking so long. I am
8 allowing additional questions because we want to
9 get to the bottom of this, and this is our last
10 opportunity to take statements from witnesses
11 which will be considered in our report.

12 So, Mr. Cage. Thank you. I'm sorry.

13 MR. CAGE: Judge, with all due respect, I
14 have -- would like to yield to the next speaker,
15 and I have -- may I be excused?

16 HONORABLE HOLMES: You may yield, and I would
17 ask --

18 You have to leave? Okay. Go ahead.

19 Ms. Zopp.

20 MS. ZOPP: Thank you.

21 Comptroller Hynes, this is Andrea Zopp.
22 I just have a couple of questions.

23 As you know, we have to come up with some
24 recommendations, and I just need to know -- I just

1 would like to get your opinion on a couple of some
2 of the issues that we're gonna have to address.
3 The first is do you agree that there is currently
4 a gap in the regulatory scheme, legislative scheme
5 regarding cemeteries and oversight over cemeteries
6 that needs to be addressed?

7 COMPTROLLER HYNES: Absolutely. And there's a
8 gap and a vacuum, and there's basically an area of
9 complete under-regulated activity that has to be
10 addressed. And our legislation would have done
11 that, but, yes.

12 MS. ZOPP: And, secondly, where -- what
13 agency -- do you think it should be one agency
14 that primarily deals with it, a set of agencies?
15 And can you tell me, if it's the one, which one,
16 and what agencies it ought to be?

17 COMPTROLLER HYNES: Well, the issue of -- I
18 think what Dr. Arnold talked about is that there
19 are so many different divisions and departments
20 that have to be involved. And I don't think it's
21 realistic to consolidate them all into one
22 division.

23 And so I do think that there is --
24 certainly what's more important than

1 consolidation, although I'm not opposed to
2 consolidation, is communication and cooperation.
3 I mean, we've actually worked in a lot of cases
4 very well with the Department of Insurance, with
5 the Department of Professional Regulations, with
6 the Department of Banks and Trusts. I mean, we've
7 worked with those agencies -- with the Attorney
8 General's Office. And I think that that has to be
9 enhanced.

10 Whether it should all be consolidated
11 under one division, it would be difficult. In
12 fact, I think we just went through a
13 decentralization at the IDFPR where insurance was
14 brought in and then brought back out. So it's
15 very difficult.

16 So, again, I don't -- I certainly think
17 that there may be some need to consolidate, but
18 there's more of a need to cooperate and
19 communicate and work on a -- on a coordinated
20 basis.

21 MS. ZOPP: Lastly, Dr. Arnold talked about
22 licensure, and we have -- and there's been a lot
23 of testimony around licensure. Is it your view
24 that we ought to be considering licensing the

1 cemetery operators? And if so, can you give us
2 just a few examples of what that ought to look
3 like?

4 COMPROLLER HYNES: Yes, I do think that the
5 cemetery -- cemeteries should be licensed as the
6 funeral homes are. And we -- in our proposal, we
7 suggested that it be done by Department of
8 Professional Regulations.

9 But, you know, issuing a license would
10 include an adherence to a code of conduct and
11 training and certification, continuing education,
12 which is important. It would -- you know, the
13 inspection part is a little bit more difficult.
14 I'm not sure if a state agency could be given sole
15 responsibility for inspecting and monitoring every
16 cemetery in the state. It would be very
17 difficult. Which again speaks to the fact that
18 certainly my office doesn't now have the ability
19 or the authority to inspect every cemetery in the
20 state.

21 I think it -- what we contemplate in our
22 bill is to allow many agencies -- if IDFPR through
23 their licensure process uncovers something,
24 obviously they have jurisdiction. If a local

1 health department can find -- if it gets a tip or
2 is doing something, they have jurisdiction. A
3 local law enforcement authority could have
4 jurisdiction.

5 And I think that -- I would be very -- I
6 think it would be very difficult to centralize the
7 inspection of every -- of the 7,000-plus
8 cemeteries in this state under one state agency.
9 I think it would be very difficult.

10 MS. ZOPP: Thank you.

11 HONORABLE HOLMES: All right. Thank you.
12 Thank you very much task force members.

13 Mr. Carter, you have a question.

14 MR. CARTER: Madam Chair, I think
15 Representative Monique covered one of the areas
16 that I was concerned about. We talk about
17 maintenance and giving care to the individual
18 grave sites. But most of the small private
19 cemeteries do a large percentage of public aid,
20 and they pay the cemetery \$550, and we are
21 responsible for keeping that space for the
22 duration of the cemetery opening.

23 And I just think it's unfair --
24 rightfully so, the families deserve the same care

1 as anyone else in the cemetery. But when you have
2 to provide the grave space in a concrete
3 container, deliver service, and deal with union
4 wages, it's almost impossible to do that. And you
5 start out by losing money.

6 And I just feel that, you know, the
7 legislators need to look at that. You are asking
8 the cemeteries to provide more service, and you
9 also want them to accept the public aid burials.
10 I just think we need to look at that and see if
11 it's fair to the cemeterians. We're talking about
12 the small cemeterians. Most of them are
13 black-owned. Black cemeteries that do most of the
14 welfare burials. And you utilize your grave
15 space, and you're expected to give the same care
16 as anyone that's buried in the cemetery. So I
17 just think it's unfair, and it's something to be
18 considered.

19 COMPTROLLER HYNES: I would agree.

20 HONORABLE HOLMES: Do you have a comment?

21 COMPTROLLER HYNES: No. I would agree.

22 HONORABLE HOLMES: Thank you.

23 Mr. McNary.

24 MR. McNARY: Comptroller Hynes, my name is

1 William McNary. I'm with Citizen Action Illinois.
2 And I know you not only to be a good caretaker of
3 our state's finances but a man of integrity as
4 well, and I want to thank you for your public
5 service.

6 You had mentioned we supported your
7 effort to rein in trust fund abuses. We were glad
8 to do so and will do so again. But I want to look
9 at -- the good news is that Member Zopp asked one
10 of my questions about consolidation, so you've
11 answered that.

12 My second question was I'm looking at
13 your senate bill, Senate Bill 662, which has a
14 whole series of reforms in it. My question is:
15 Is there anything in this bill based upon -- I'm
16 sorry. Based upon the testimony we've received
17 and the hearings, is there anything that is not in
18 this bill that you would recommend to us as we
19 consider these reforms?

20 COMPTROLLER HYNES: I mean, that is -- that is
21 a good question.

22 One of the initiatives that we -- we
23 proposed in the years past that I believe I've
24 gotten indirectly that has been a subject of

1 conversation with this task force is the notion of
2 having a requirement that a separate contract be
3 executed at the cemetery in addition to the
4 funeral home. This is something we attempted to
5 push in, I believe, 2005, and we couldn't get
6 through the legislature.

7 The problem is that -- I think what we've
8 learned is that as much regulation as we impose,
9 as much supervision as we impose, we're ultimately
10 also going to be depending on an educated
11 consumer, an informed consumer. We've had
12 education and consumer awareness programs, but the
13 contract is the key. They need to know what
14 they're getting, what they're paying, what the --
15 what the provisions are, what the protections are
16 under law, what the fine-print is.

17 And they need to know are they getting a
18 plot in this area or in some other area? Are they
19 getting perpetual care? Are they not getting
20 perpetual care? And I think that there's often
21 confusion, especially at the at-need -- in the
22 at-need situation when you really have a family
23 who is grieving, not thinking clearly, not able to
24 focus on details, where I think a contract would

1 be very helpful. And that is something I think we
2 should include.

3 HONORABLE HOLMES: Representative Dunkin.

4 REPRESENTATIVE DUNKIN: Thank you, Madam
5 Chair.

6 Comptroller Hynes, I want to state for
7 the record this is -- I've known you since I've
8 been elected, even before that, and I've had the
9 utmost respect for you. I simply was expecting
10 for you to understand that there was a major lapse
11 within your department that you may or may not
12 have been aware of and to simply acknowledge the
13 fact that someone dropped the ball within that
14 agency, and I think we could have moved on. And I
15 think we could have really met the intent of this
16 respective panel, task force, to find out what we
17 had missteps on or mishaps or problems with in
18 order to move forward with the best legislation.
19 That's really it.

20 So I want to make it real clear. This is
21 nowhere near personal with you. I mean,
22 everything that -- some of our comments here
23 McNary pointed out I believe as well. I know you
24 are a man of integrity. But you have a large

1 agency that also has a very diverse perspective
2 and job responsibility of a different source.

3 And I believe based on -- and this is
4 coming from your staff. That they did not get out
5 of the vehicles to inspect Burr Oaks, the bones.
6 They dropped the ball on the cemetery issue at
7 Burr Oak Cemetery. They dropped the ball. And
8 all you have to do, because you are a man of
9 integrity, is to be man enough to say, look, we
10 made a mistake. Let's find out the mistakes, and
11 let's craft the best legislation going forward so
12 this will never, ever happen in the State of
13 Illinois again. That's it. That's really my
14 angst with this.

15 You know this is very personal to me,
16 like it is with other members here. Families who
17 have no voice. They don't have the -- they don't
18 know the representatives and cemetery funeral
19 directors. They don't even come in this building.
20 But yet they pay for it. They also pay for my
21 salary, your salary. And there's also not only
22 just a fiduciary responsibility but a legal and a
23 moral obligation to take care of those most
24 vulnerable and those who are not even the most

1 vulnerable. Simply to do our job.

2 That's all I want you to come clean with;
3 that there was a mishap within your respective
4 Office of the Comptroller. And maybe your staff
5 of 18 or 23 -- that number fluctuates depending on
6 sort of where we are -- to say, look here, this is
7 probably what we should have done.

8 You should also ask the question why
9 wasn't there a response, or how did we -- your
10 office respond to those complaints at Burr Oaks
11 and other places and particularly Burr Oaks.
12 That's all. I want to be real, real clear with
13 this.

14 We have an opportunity right now this
15 task force, this panel, to come up with something
16 that's gonna be comprehensive. It's gonna be life
17 lasting. That -- I don't ever want to have this
18 conversation with you or anyone else again. It's
19 embarrassing for us.

20 For your office to have the sole
21 responsibility -- I read the statute because I
22 didn't want to -- I wanted to make sure that --
23 nothing -- none of this is politicized. The
24 speaker appointed me on this task force.

1 I want to be extremely clear that there
2 is a mishap. There's a problem in your agency.
3 And a performance audit review that I'm requesting
4 and other members will join as well to see to it
5 that we're gonna have your full faith and your
6 support.

7 And if there's a problem there, let's
8 move on. But don't sit here and deny that there
9 was no problem or that your office was clean; that
10 they had adhered to every particular step or
11 performance that we would have anticipated or
12 expected them to do. They didn't. And that's
13 what everyone, in their sort of special
14 conversation, their way, that's the purpose of
15 this right here. They know it. They mentioned
16 it. That's it.

17 I don't want to belabor this, but I want
18 to make sure we're very clear that there are no
19 fools on this side, and there are no fools on that
20 side as well. Now, if you really want to hear
21 some street talk or real talk as relates to that
22 funeral home, go out and ride the bus out south or
23 out west in some of these black communities and
24 listen to the grandmothers, the sons, the

1 daughters, the nieces who have their babies out
2 there.

3 You don't hear it like I hear it. Maybe
4 you don't feel it like I feel it. It's serious.
5 So man up, find out what the hell went wrong in
6 your shop, see what we can do to resolve this as a
7 result of that negligence that occurred in your
8 office. That's my whole point for being here. I
9 want to get to some solution. We need your
10 cooperation.

11 HONORABLE HOLMES: Do you have a comment?

12 COMPTROLLER HYNES: No.

13 HONORABLE HOLMES: Okay. I have one quick
14 question, and then I want to make the record
15 clear.

16 I guess I'll ask my question first which
17 is what is your thought about -- we've heard some
18 testimony that there are cemeterians who ask for
19 cash only, particularly in minority communities.
20 We are considering the possibility of asking the
21 legislature to mandate that they also take
22 cashier's checks, money orders, possibly debit
23 cards and/or credit cards which would be direct
24 payment. So in other words, not a check per se

1 because checks might bounce, but some form of
2 payment other than cash that would be a direct
3 form of payment so we know that they get paid for
4 their services. What are your thoughts, if you
5 have any, on that?

6 COMPTROLLER HYNES: Would it be a requirement
7 that they would not allow cash, or would it
8 just --

9 HONORABLE HOLMES: No, no, no. That in
10 addition to cash -- that they not allow cash only.

11 COMPTROLLER HYNES: Right. Oh, that's a great
12 idea --

13 HONORABLE HOLMES: That in addition to cash,
14 if the individual has some other form of direct
15 payment, a cashier's check, a money order,
16 et cetera.

17 COMPTROLLER HYNES: Yeah, I think that's a
18 good idea.

19 HONORABLE HOLMES: Okay. Thank you.

20 I just want to note for the record -- I
21 want to note for the record that we did send you a
22 letter and that you did comply with our request
23 for information and that the information that you
24 submitted to us is available on the web site. So

1 for any individuals who would like to see the
2 information that you submitted in response to our
3 letter, they can go to our web site at
4 www.cemeterytaskforce.illinois.gov.

5 We will also post Representative Dunkin's
6 resolution that he submitted today.

7 REPRESENTATIVE DUNKIN: House Resolution 600.

8 HONORABLE HOLMES: House Resolution 600.

9 We will also post-any other documents and
10 information given to us today.

11 Comptroller, I really appreciate your
12 testimony here today, your patience. I hope you
13 understand that none of the comments directed at
14 you today were political or personal. This was
15 all about fact-finding.

16 We have heard testimony over the last
17 couple of months. Much of that testimony has led
18 to the questions that were asked of you today. We
19 requested that you testify. We allowed you to
20 testify on your schedule, so it wasn't us holding
21 you until the last day. You actually requested
22 this date, and so we accommodated your schedule.

23 So I don't want members of the public to
24 think that we sort of waited until the last minute

1 to have you testify here today. And it was just
2 fortuitous that Attorney General Madigan also had
3 the same schedule, and as a result we had two
4 people who the task force really wanted to ask
5 questions of who testified on the same day, and so
6 it took a very significant amount of our time.

7 We are actually over time now, so I'm
8 going to try and get through our other witnesses
9 extremely quickly. But I just wanted to thank you
10 very much for your time, your patience, your
11 responses to the questions, and your attempt to be
12 open and honest about the information that we
13 requested here today. So thank you extremely
14 much. We really appreciate it.

15 COMPTROLLER HYNES: Thank you, Madam Chair and
16 members of the task force.

17 HONORABLE HOLMES: Thank you.

18 We will now called Sonja Washington.

19 Hi, Ms. Washington. How are you?

20 Give me a second. I want to make sure
21 our court reporter is ready.

22 MS. WASHINGTON: Sure.

23 THE COURT REPORTER: Thank you.

24 HONORABLE HOLMES: So can you spell your name

1 because I know Sonja is spelled differently. So
2 if you could spell your name so the court reporter
3 has it spelled correctly, we'd appreciate it.

4 MS. WASHINGTON: All right. Old-fashioned
5 way. S-O-N-J-A. Middle initial T. Washington.

6 HONORABLE HOLMES: Okay. Thank you,
7 Ms. Washington. What would you like to share with
8 us today?

9 MS. WASHINGTON: I'd like to share with you
10 that in 1998 I called Comptroller Dan Hynes'
11 office. 1998 I told him of the problems that I
12 saw out to our cemetery, Mount Glenwood South.
13 All right.

14 Now, I have --

15 REPRESENTATIVE DUNKIN: He should come back
16 and hear this.

17 MS. WASHINGTON: I have been going to
18 cemeteries since I was four years old with my
19 family. My mother is from New Orleans. She was
20 born on Rampart Street. So we would see the
21 parade starting for the funerals with the drawn
22 horses with the band. Okay. This is -- this is
23 for real here. And it's in me.

24 When I went out there, I didn't notice

1 things, but I started walking the grounds and saw
2 things I just didn't like. I saw the flags where
3 the veterans were tattered. All right? They
4 looked like they had been through the Civil War.
5 All right? The monument there, it was crumbling.

6 But this is what happened. I called in
7 1998, talked to Dan Hynes, Comptroller. I was
8 hung up on. So I did some more calling.
9 Veterans. All right?

10 REPRESENTATIVE DUNKIN: Excuse me. I'm sorry.
11 Madam Chair, you are the chair.

12 HONORABLE HOLMES: Yes.

13 REPRESENTATIVE DUNKIN: Can someone from Dan
14 Hynes' office come in here to listen to this
15 testimony since they again have sole jurisdiction
16 today over cemeteries.

17 HONORABLE HOLMES: We can request that.
18 Whether they will come back --

19 REPRESENTATIVE DUNKIN: They need -- the staff
20 needs to come back and maybe put in some kind of
21 work.

22 HONORABLE HOLMES: Andrew, will you ask
23 somebody from Representative Hynes' office to step
24 back in --

1 REPRESENTATIVE DUNKIN: He should stay here.

2 There's a camera out there, so he -- he knows how
3 to find those.

4 HONORABLE HOLMES: Excuse me. I can't recall
5 your name. You were Jessica --

6 MS. SOHL: Sohl.

7 HONORABLE HOLMES: Sohl.

8 We have a request by one of our task
9 members for someone from your office to listen to
10 the testimony of Ms. Washington. She is
11 testifying about information that she gave to your
12 office, and we think, in all fairness, somebody
13 might want to be here possibly for rebuttal
14 purposes if necessary.

15 MS. SOHL: Okay. I'm more than happy to
16 listen.

17 HONORABLE HOLMES: Sure.

18 REPRESENTATIVE DUNKIN: You can invite the --
19 you can invite the Comptroller here to listen as
20 well.

21 MS. SOHL: I'm sure I will mention it to him
22 as well, Representative.

23 HONORABLE HOLMES: Okay. Thank you.

24 All right. You can continue.

1 MS. WASHINGTON: So I started calling like the
2 veterans. Different funeral parlors. All right?
3 Talked to the people like South Suburban area.
4 All right?

5 This is -- you know, it kept going with
6 me. I could not stop. It was like I was being
7 pushed.

8 And then, too, when my mother passed, I
9 told her, do not worry. I will be out there to
10 take care of your grave site. My father. All
11 right? My relatives who were in service. My
12 nephews. All right? I said I would do that, and
13 I have done that.

14 But the thing about it is since I saw
15 what was going on TV about Burr Oak, it brought
16 this back up. And it gets you right here. It
17 gets you right here. Whether you know it or not,
18 you do not know when it's going to happen to any
19 one of you. God forbid.

20 Now, what I want to say is concerned
21 citizens right here in 1999, Comptroller Dan Hynes
22 broke the state up into fours. All right? We
23 went to the meeting about Mount Glenwood South,
24 Mount Glenwood West. Now, someone could have been

1 there from Evergreen which is in Steger.

2 These three cemeteries, we had our
3 problems. Not only that the owner, Mr. Willard I.
4 Timmer, got kicked out of the Florida. He owned
5 15 cemeteries in Florida. Then he comes up here
6 because he owns these three that I'm talking
7 about. How do you get kicked out of Florida and
8 then come up here? And you don't get any help
9 excepting that they're going to take care of this,
10 they're going to take care of that. All right?

11 I go in the office. They do not
12 recognize me. I wear a wig. Sometimes I'm in
13 shorts. I look different. What I did see
14 disturbed me because I saw Mr. Willard I. Timmer
15 and his wife shredding, shredding information,
16 books, what have you -- it's in our cemetery, all
17 right, the office, Mount Glenwood South.

18 HONORABLE HOLMES: Did you report that to
19 anyone?

20 MS. WASHINGTON: Oh, I sure did.

21 HONORABLE HOLMES: Who did you report it to?

22 MS. WASHINGTON: I reported it our attorneys.
23 We had a class action suit against this cemetery.
24 Class action. Federal court.

1 HONORABLE HOLMES: Was it ever reported to
2 anyone in the state, any agency? And if so, in
3 paper.

4 MS. WASHINGTON: Right here. Right here. We
5 sent out letters.

6 REPRESENTATIVE DUNKIN: You reported it to the
7 Comptroller's office.

8 COMPTROLLER HYNES: To the Comptroller, to --
9 what's -- Ms. Lisa.

10 UNIDENTIFIED SPEAKER: Madigan.

11 MS. WASHINGTON: All right. And to at that
12 time Lieutenant Governor Quinn because I told him
13 about the grave site, about the veterans.

14 All right. I was marched back over to
15 Dan Hynes. I went to Emil Jones. I got three --
16 I got a receptionist and a secretary. I was not
17 by myself. I had a girlfriend with me at Mr. Emil
18 Jones' office. I had another girlfriend with
19 me -- I know. Governor Blagojevich. I talked to
20 him and told him.

21 I went to different organizations, South
22 Suburban. All right? All these people -- the
23 Village of Robbins. All right?

24 I was supposed to meet with you,

1 Mr. Carter, you and Mayor Brodie. Okay? You
2 didn't show up.

3 MR. CARTER: I never received it.

4 MS. WASHINGTON: No. You were supposed to
5 meet -- I was at the office. I'm not gon' get
6 into that. I was at Mayor Brodie's office in
7 Robbins.

8 REPRESENTATIVE DUNKIN: But you did let the
9 Comptroller's office know.

10 MS. WASHINGTON: Oh, yes. I got tape. I had
11 his right-hand guy, Mr. Foley.

12 REPRESENTATIVE DUNKIN: And what did he do?

13 COMPTROLLER HYNES: Hey, he talked to me.
14 They're gon' do that. I went out there. Oh,
15 they're gonna take care of everything. Uh-uh.
16 Uh-uh. Pass it. Pass it right on. Pass it right
17 on.

18 Village of Robbins -- listen. I went to
19 the South Suburban mayor's office. All South
20 Suburban knew about it. Representatives, they
21 knew about it. Here are the newspapers, South
22 Suburban and The Star. It was in the papers. I
23 was there for an exhuming of a body because they
24 called me and wanted me there. All right?

1 It says right here. Okay. "State
2 targets unkept, mismanaged cemeteries." And
3 believe me, that's what it is out there. And it's
4 still like that.

5 Okay. So Mr. Willard I. Timmer owns all
6 three cemeteries. When we went to federal court
7 under Judge Arlando Keys -- Arlander Keys, okay?
8 He knew the whole story.

9 All we said -- we didn't want that
10 \$10,000 a piece. There were nine of us. We're
11 right here. Nine of us. All right? We've been
12 through this. There's six left. Three are
13 deceased. God bless them because they stuck with
14 this.

15 The thing about it is the judge -- you
16 know, what do you want? We said, tell them to
17 clean it up. We had to wait for Willard I. Timmer
18 to come from Florida because of the suit. We
19 didn't know anything about Florida until we went
20 down here in 1999. And guess what? It hit
21 Florida. All right. So here he comes flying up
22 here. We had to wait for him in court to get the
23 business straight down there.

24 All right. He comes up, decides he's

1 gonna sell it to his daughter or give it to his
2 daughter. I never got the hang of it. The
3 attorney held up whatever. You know, the deed,
4 whatever, the bill of sale.

5 Now, when you've got 15 cemeteries down
6 in Florida, the Sunshine State -- God bless them,
7 because he had to get the hell out. They had
8 enough. It was all on the news.

9 And then we were on the news. All the
10 stations had us. All right? I've got three tapes
11 that shows what happened, all right?

12 That day, 1999, after, you know, the news
13 and everything in Thornton, I get this phone call.
14 Are you Sonja T. Washington? Yes. Are you the
15 activist about the cemetery? I said, well, if it
16 fits, I'll wear the shoe. Okay?

17 So what happened. He calls me, this
18 Mr. John Saw. I got a tape you need to see. I
19 said all right. I said meet me. Went and saw the
20 tape. Whose tombstone is in the -- with the two
21 vaults but my husband's grandmother, Missouri
22 Washington. Now, she's -- there's a map. She's
23 over in Section M. Okay?

24 This was in '99. Okay. After the

1 meeting -- this is August. We could not go down
2 there in August. We had to wait until October
3 around Halloween. My husband, myself, and my
4 cousins, we went down there and dug up the
5 tombstones, and we saw the vaults sliding,
6 sliding. All right? This is what we've been
7 through.

8 Okay. So we decided to get the committee
9 to protect and save historical Mount Glenwood
10 South Cemetery. Then we had Mount Glenwood West
11 to join us and Steger. There's a tape of that
12 also, a PowerPoint tape that Dan Hynes,
13 Comptroller Dan Hynes sent his people, and they
14 photographed it.

15 All right. Now guess what? Someone says
16 Sonja call the next day because they ain't got the
17 tape. Okay. So I call. True. The door was
18 locked. They don't have a tape. I had to wait
19 two or three days for the tape. And the tape has
20 been turned over to the Department of Financial
21 and Professional Regulation. They have the tape,
22 and they've got John Saw's letter. And they've
23 got the whole folder.

24 HONORABLE HOLMES: As of what date? You held

1 up an envelope. What date is that that it was
2 turned over to the DFPR?

3 MS. WASHINGTON: August the 31st.

4 HONORABLE HOLMES: Of what year?

5 MS. WASHINGTON: This is 2009.

6 HONORABLE HOLMES: So recently. Okay.

7 MS. WASHINGTON: Yes. They had the tape.

8 HONORABLE HOLMES: Thank you very much.

9 Representative Davis has one question she's the
10 only person on our panel --

11 REPRESENTATIVE DAVIS: Thank you. Madam
12 Chairman Holmes, Judge Holmes, thank you so much.

13 I just wonder if you can provide us with
14 copies of what you had been, you know,
15 demonstrating up there. And also it seems that
16 you have a group and you guys have been
17 complaining about cemeteries and the upkeep and so
18 forth.

19 MS. WASHINGTON: Yes.

20 REPRESENTATIVE DAVIS: Could you perhaps list
21 those concerns and see that Judge Holmes get a
22 copy of those? We would appreciate it, this
23 committee would. She'll see that we all have a
24 copy.

1 MS. WASHINGTON: All right.

2 HONORABLE HOLMES: If you can get those copies
3 to me, I'd appreciate it very, very much.

4 MS. WASHINGTON: Okay. Will you give me --

5 HONORABLE HOLMES: Yeah, we'll give you some
6 information so that you can -- what we're gonna do
7 then is post it on our web site so that all the
8 public can see it as well so everybody understands
9 what you're talking about.

10 MS. WASHINGTON: I'll get back to you. But
11 may I say one more thing?

12 HONORABLE HOLMES: Sure.

13 MS. WASHINGTON: While I was out to the
14 cemetery -- and I had my cousin who has cancer
15 because she -- she begged me come on out to the
16 cemetery because you know where the family is.
17 And I did this. While we were leaving, I saw Cook
18 County Sheriff's Police, Mr. Tom Dart. It just so
19 happened my girlfriend gave me the layout on
20 everything. I had it in the back of the car. And
21 he saw it. Okay.

22 And I asked them, they were coming out
23 from the crematorium in the shed area. I said,
24 who are you. And he said -- he came up. I'm

1 Mr. Tom Dart. I said, I've been looking for you.
2 He said -- Sonja Washington. He said, oh, yeah.
3 I heard about you because one of our people had
4 relatives out to Burr Oak.

5 This is how we get the feedback. Not
6 only that, we had someone from Mount Glenwood come
7 and was going to point out how our cemetery
8 compared with Burr Oak and Hope. Okay. And she
9 is a cemetery -- she's with the cemetery. So she
10 knew about it also.

11 This is not a secret. We've been through
12 this. We've been on the television. And that
13 crematorium out there, 23 bodies burned up. We
14 asked, you know, the Comptroller. You know, why
15 are you giving them the bodies. And the thing
16 about it is I pass there. I pass there and I pray
17 as I go. But the thing about it I saw the fire
18 department. And I asked my husband and some
19 friends, why is the fire department out at Mount
20 Glenwood cemetery? Putting out the bodies.
21 Because you know why? The railroad track has
22 these big like timbers --

23 HONORABLE HOLMES: Ms. Washington, I hate to
24 interrupt you, but Dr. Around has one question and

1 then I am gonna have to restrict your testimony
2 because we do have two other people testifying.

3 MS. WASHINGTON: But let me tell you. The
4 crematory, I pray to God, it ain't working no
5 more.

6 HONORABLE HOLMES: One more question.

7 MS. WASHINGTON: Go on.

8 DR. ARNOLD: Okay. Thank you.

9 And thank you for your testimony. I'm
10 Dr. Arnold, the Director for the Illinois
11 Department of Public Health for the record. But I
12 wanted to commend you for, you know, your
13 voracious efforts to try to justify the value of
14 veterans. I served with them, so veterans are
15 near and dear to my heart, and you brought a
16 pretty good tear to my eye with your testimony.

17 But one of the things I want to find
18 out -- this is really a quick question to answer.
19 One is: Is this a public or private cemetery?
20 You know, is Mount Glenwood South a public
21 cemetery or private cemetery?

22 And then the second question is do we
23 have any kind of resolution to that federal suit?

24 MS. WASHINGTON: It is owned by the Timmers.

1 Okay. But it is open. It is not private. It's
2 not private.

3 Now, sir, one thing I want to tell you
4 right now, I was out there on the 9th, and I
5 have pictures in regard to where the bodies are
6 going. You look out there. They're digging
7 already. I got photographs of it. That's where
8 your bodies are gonna be going. Not only that,
9 they're taking up the forest preserve. They're
10 going back and extending it because we've got
11 aerial shots, fillers.

12 HONORABLE HOLMES: Was there a resolution to
13 your federal suit? That is what Dr. Arnold's last
14 question --

15 MS. WASHINGTON: The only thing is they agreed
16 to clean it up. I'm still after them.

17 HONORABLE HOLMES: Okay. Unfortunately, I am
18 going to have to restrict your testimony at this
19 point. Thank you so much. We really do
20 appreciate it. If you will get us the documents
21 that you discussed, we will put them on the web
22 site for public review. And if you would like to,
23 please feel free to comment on the web site.

24 There's a space for you to comment. If you want

1 to continue and give us additional information,
2 you can type it in right there, and we'll make
3 sure that it's public as well.

4 MS. WASHINGTON: I thank all of you --

5 HONORABLE HOLMES: Thank you.

6 MS. WASHINGTON: -- and you cannot make up
7 this stuff. Okay? Trust me.

8 HONORABLE HOLMES: Trust me I know.

9 MS. WASHINGTON: And look after your loved
10 ones out there. Take my advice. Walk the
11 grounds.

12 HONORABLE HOLMES: Thank you. Thank you very
13 much.

14 MS. WASHINGTON: Okay. It's free. Walk.
15 Thank you.

16 HONORABLE HOLMES: We'll now hear from Robert
17 Gilligan and Father Pat Pollard from Catholic
18 Cemeteries.

19 FATHER POLLARD: Your Honor, I have some
20 documents to share with you.

21 HONORABLE HOLMES: Okay. Thank you very much.
22 And thank you for your patience. I know that it's
23 been a rather long afternoon. We really
24 appreciate it.

1 If you'll state your names and make sure
2 you spell the last names for the court reporter,
3 and then you can begin your statements.

4 MR. GILLIGAN: Certainly. My name is Bob
5 Gilligan, G-I-L-L-I-G-A-N. I'm with the Catholic
6 Conference of Illinois. Thanks for the
7 opportunity to offer some comments. And in
8 recognition of the time, I'm going to defer most
9 of my time to Father Pollard, and we're gonna try
10 to be very brief here today.

11 Also, I know a lot of people took some
12 time to join us here today, so I'd just like to
13 recognize some of the other Catholic Cemetery
14 directors who have joined us from throughout the
15 state.

16 In the audience with us today we have
17 Carol Giambalvo from the Rockford Diocese, along
18 with Rich Tapella from the Joliet Diocese. And
19 Roman Szabelski is here as well, and I know his
20 name has come up a couple of times during the past
21 couple of weeks with regard to his role as
22 receiver at Burr Oak. Also Greg Vogel is here
23 today from the Peoria area as well.

24 Like I said, thanks for the opportunity.

1 Basically we're just here for two reasons. First
2 of all, we'd like to publicly express our
3 sympathies to the families of Burr Oak. I know
4 that's come up time and time again. But as
5 individuals running a Catholic cemetery, which we
6 have approximately 2.4 million bodies that we're
7 responsible for in the Arch Diocese alone, we
8 recognize the grief that many of the families are
9 experiencing right now.

10 I think earlier in the day, William
11 pointed out to the committee the fact that not
12 only do the deceased deserve our dignity, honor
13 and respect, but also those who are remaining with
14 us, the families of the loved ones, they deserve
15 our dignity, honor, and respect, and we should
16 never lose sight of that as we proceed.

17 And, you know, I have been here through
18 the last five or six weeks attending most of the
19 committee hearings. And so the second reason that
20 we're here is to try to just offer our expertise.
21 We're here to help you. As I said earlier, we
22 have about 2.4 million individuals that we're
23 responsible for in the Arch Diocese alone. 17,000
24 come in every additional year. So we have a

1 number of cemeteries throughout -- not only in the
2 Arch Diocese but the state as well.

3 I know there's been a lot of questions
4 and issues that have come up in the past about,
5 you know, document retention and how does that
6 work, some of the things about pricing. I think
7 Attorney General Lisa Madigan alluded to some of
8 those things earlier.

9 Burial practices. I know, Representative
10 Davis, you've had a question or two about that.

11 And then about cemeteries buying of
12 property, et cetera.

13 So we're here -- like I said, we're here
14 for you, and anything we can do to help make your
15 recommendations easier, we're here just to lend
16 our expertise.

17 So with that I'll just turn it over to
18 Father Pollard, and we'll take it from there.
19 Thank you.

20 FATHER POLLARD: I'm Reverend Patrick Pollard,
21 P-O-L-L-A-R-D. I'm the director of the Catholic
22 Cemeteries for the Arch Diocese in Chicago, and
23 I'm representing all six diocese in the State of
24 Illinois. There are 448 Catholic cemeteries in

1 the 102 counties that encompass Illinois. There
2 are 46 Catholic cemeteries in the Arch Diocese of
3 Chicago, which is Cook County and Lake counties in
4 Illinois. We annually bury 17,000 persons which
5 makes us the largest Catholic cemetery system in
6 the United States.

7 With that said, I'd like to step back to
8 the morning of July 15th when Roman Szabelski,
9 my Executive Director for the Catholic Cemeteries
10 from the Arch Diocese, volunteered to serve as the
11 receiver. I had to contact Cardinal Francis
12 George and ask his approval of Roman's wish to
13 serve, and the Cardinal's first comments to me
14 were, that is very gracious of him. We need to
15 help the families of Burr Oak. We need to have
16 them know that someone cares about them whatever
17 we can do.

18 And so since that day, he has been
19 shared. He takes an hour in the morning to take
20 care of the Catholic cemeteries of the Arch
21 Diocese, and then he drives to Burr Oak for the
22 rest of the day.

23 Our purpose here is to just share with
24 you some information of what we do throughout the

1 Archdiocese and the diocese of Illinois and then
2 to give you two positive suggestions.

3 One of the things we try to do because
4 our mission is a mission for the church. So our
5 mission in ministry is to bury the dead because we
6 are a Catholic community. We welcome the Catholic
7 faithful, and we welcome, beyond that, other
8 people of other religions. So if there's a
9 Catholic member who buys graves for their family,
10 and the other members are not Catholic, they are
11 all welcome to be with us.

12 We have established over the years a
13 great deal of trust, and so we know that that
14 trust that those families have in us and the
15 Catholic cemeteries is important. We want,
16 through Mr. Szabelski, to restore that trust to
17 the families at Burr Oak so that they know when
18 they've entrusted their loved ones to that
19 cemetery they are there at rest in perpetuity,
20 whatever that means in our life.

21 To do that, there are also several things
22 we do which are religion neutral. Whether it's
23 Catholic, Jewish, Protestant, Muslim cemetery or
24 non-sectarian cemetery, certain things we do that

1 are there. We lay out our cemetery grounds. We
2 cut the grass. We take care of the trees. We
3 trim around the stones. We dig the graves. That
4 is a religion neutral.

5 And to explain things to people, I gave
6 you a copy of this "Interment Vault Handling
7 Service and Recording Fee." We try to describe to
8 the public everything that we do. You'll see the
9 issue date on this is 1997. So this has been
10 available to the public. You can go to any of our
11 16 offices, you go to offices throughout the State
12 of Illinois and find information available to the
13 public.

14 We think it's important to explain to
15 people. Most people's experience of a cemetery is
16 a funeral. Some people come back and visit
17 graves; some do not. Some may not feel
18 comfortable even going into a cemetery, and so
19 their experience is quite different.

20 In recognition of what AARP has always
21 told us to do, provide the consumer with
22 information. So we give you a price list. This
23 is our current price list. The price list is
24 reviewed and issued every July 1st of the year.

1 And we have been doing this for over 20 years. To
2 make sure that this is available to the public,
3 it's at any of the offices, easily taken into
4 their hands.

5 We have -- our staff -- for instance, in
6 the State of Illinois, our Catholic cemeteries
7 bury 21,000 persons every year. 4,000 of those
8 are in the five diocese to the south. In the
9 Chicago area, we have the largest number because
10 we have such a strong Catholic population.

11 We, through our Catholic Cemetery
12 conference, which is housed at Queen of Heaven
13 Cemetery, and I am currently the national
14 president. We represent 120 diocese through the
15 United States and Canada.

16 We have a certification program for those
17 who run the cemeteries. So after my name appears
18 the letters CCCE, Certified Catholic Cemetery
19 Executive. And that has to be earned with a point
20 system for issuing publications, for attending
21 conferences, seminars, continuing education. All
22 that goes into the certification and then has to
23 be renewed, and the certification is lost if you
24 leave the cemetery field.

1 Myself -- I carry that designation while
2 Mr. Szabelski has that designation. I have two
3 other members of my staff with that designation.
4 Carol Giambalvo, the director from Rockford, has
5 that designation. And our director from Joliet is
6 working at it. And the director from Peoria, Greg
7 Vogel, carries the CCE, which is the Certified
8 Cemetery Executive, which is given by the
9 International Cemetery and Funeral Directors
10 Association after completing education and such to
11 receive those requirements.

12 I would -- I'm very conscious of your
13 time. So I would like to give you some question
14 time, but I'd offer you two suggestions. The one
15 is to look at this form I passed you. It's a
16 triplicate form. It has ceased in operation years
17 ago.

18 We -- I know that Secretary Brent Adams
19 presented it to you at a previous session, and I
20 just reinforce what he said; that this was a
21 way -- as you notice, the bottom part, it says
22 sexton. Sexton, by the way, is a church term for
23 the manager of the cemetery. We haven't used that
24 term since 1994, so this goes back a while.

1 But in this form, it does -- you have to
2 designate where the body is going. And this was
3 returned to the Illinois Department of Public
4 Health. And obviously you wouldn't use a
5 triplicate in this day and age. You would use
6 electronic form. But we encourage you this would
7 be a wonderful way to really verify where the
8 location is of the remains, whether they're full
9 body remains or cremated remains, and this could
10 possibly be inserted into a death certificate in
11 Illinois.

12 The second is something that is now
13 policy for all six diocese in the State of
14 Illinois, and that is that anyone we hire at the
15 cemetery must submit to a criminal background
16 check. And we do that even for our summer
17 employees. The college students we hire to cut
18 grass, they go through a criminal background
19 check.

20 Again, we are trying to restore trust --
21 well, our hope is to continue the trust. We want
22 to restore that same trust at Burr Oak. But we
23 want people to trust that when they're leaving
24 their beloved dead ones with us that we will take

1 care of the deceased well and we will honor their
2 trust in us.

3 And I just -- I have more to say about
4 what we do, but we want to be a resource to you.
5 If we can provide any other information, I know
6 myself, my staff, we would gladly do that for you,
7 and thank you.

8 HONORABLE HOLMES: Thank you very much. This
9 is very impressive material that you've given us.
10 We'll make sure that it's on our web site.

11 We do have a few questions for you.
12 We'll try and keep it brief because of the time.

13 Representative Brady just got my
14 attention. Then we'll go this way.

15 REPRESENTATIVE BRADY: Thank you, Madam Chair.

16 Father, thank you very much for being
17 here and your testimony, and certainly the same to
18 you, Mr. Gilligan. Thank you.

19 Very briefly, how many Catholic
20 cemeteries in Cook County. Did you say 16? Did I
21 hear that correctly?

22 FATHER POLLARD: There are 46 in the Arch
23 Diocese, Lake and Cook County.

24 REPRESENTATIVE BRADY: Okay. And religious

1 cemeteries are exempt from the Cemetery Care and
2 Burial Trust Fund Act under the Comptroller, are
3 they not?

4 FATHER POLLARD: Yeah, that's correct.

5 REPRESENTATIVE BRADY: Also the form that you
6 brought --

7 FATHER POLLARD: May I --

8 REPRESENTATIVE BRADY: Sure.

9 FATHER POLLARD: -- put a codicil to that.

10 We, knowing -- and it has already been
11 voiced very clearly. We do feel the moral and
12 fiduciary responsibility. And so Mr. Szabelski
13 and I are constantly reminding our finance
14 committees and all we abide by the same rules as
15 the committee. So we put away ten percent of any
16 crypt and 15 percent of every grave into income
17 care funds for the Catholic Cemeteries even though
18 we're not bound by that, and those are reported in
19 our financial statements which are made public by
20 the Arch Diocese annually.

21 REPRESENTATIVE BRADY: Thank you. I wish the
22 Catholic cemeteries in my district were ran as
23 efficiently.

24 And the form that you put out here that I

1 dealt with for so many years as a funeral
2 director, the VR204, has been out of existence for
3 a while. But my point is, if Burr Oak was keeping
4 records correctly over the years in years past and
5 we can put our trust in whoever the sexton was and
6 the manager, this would have been and should still
7 be in the Department of Vital Records for a
8 lengthy, lengthy period of years of interments at
9 Burr Oak Cemetery.

10 So I've offered that before. Even though
11 the form is ceased from the standpoint of being in
12 circulation, what was sent down there, if they
13 were doing what they were supposed to under the
14 law, there should be a lot of vital information.
15 And as the author of the Electronic Filing of
16 Death Certificates in the state legislation, we'll
17 certainly look at -- other than just the name of
18 the cemetery, look at enhancement of the location
19 in this day and age of electronic filing. So
20 thank you again.

21 FATHER POLLARD: One of the things, if I may
22 comment, we do for the public is all of the 16
23 offices in the Arch Diocese, you can walk in and
24 locate anyone in that specific cemetery or any of

1 our 46 cemeteries. We have them all in computer,
2 an easy-to-use kiosk, and interactive kiosk. And
3 we print out a map of the cemetery, marking the
4 spot of the burial and delineating exactly what
5 grave, what lot, what section.

6 HONORABLE HOLMES: Thank you very much.

7 Dr. Arnold.

8 DR. ARNOLD: Okay. Thank you, Father Pollard.
9 This is Dr. Arnold, the Director of the Illinois
10 Department of Public Health.

11 A couple of months ago -- and it was due
12 to a lot of the people who are on this panel.
13 Representative Brady was really instrumental as
14 well as Representatives Dunkin and Davis. But
15 what we have done is that we actually pushed this
16 forward, and with the -- with Governor Quinn's
17 help, we have made this into an electronic
18 reporting system.

19 So the death registry system now is
20 electronic statewide. We actually moved the
21 responsibility from the City of Chicago to the --
22 to Cook County itself for this reporting system.
23 So we're going to talk about compliance in the
24 future, making sure that people actually do comply

1 with that in a very timely fashion.

2 But there is this one particular section
3 I felt that was really important I think from the
4 beginning is that we have some type of
5 registration of the -- from the cemetery owners of
6 which plots people are being placed in and also
7 reinterment. You know, if they actually change or
8 modify that, that should be reflected in an
9 electronic record. So we are working actually on
10 a document, a system to potentially do that, but
11 that's going to be a recommendation for this panel
12 to really look at and think about whether that's
13 what they wish to do as a body.

14 There was also one other thing that I
15 mentioned before, and I actually did get a chance
16 to take a look into it: Was the possibility of
17 using some type of implantable micro chip and
18 whether that could be used -- it would cost a
19 total of six dollars. One for people, and another
20 one potentially for the actual coffin itself.

21 So we're going to -- you know, we're
22 gonna start looking at that as a possibility. I'm
23 going to actually give that document to the
24 committee to consider it and see if that's even a

1 possibility.

2 We can do GIS mapping now. We can
3 actually track those things. It may make it an
4 easier mechanism to track and to maintain this
5 without having to send massive survey teams out to
6 all of the funeral arrangements. And the actual
7 implant could be done by the funeral owners, the
8 people who are within the funeral parlors, so that
9 that is unknown to the person that is actually
10 receiving the body at the cemetery site. So that
11 would be one potential way of doing that.

12 But I also want to commend you. Looking
13 at the documents you provided to us -- and this is
14 very clear to me. You know, I'm looking through
15 it, and I wish, as Representative Brady said, that
16 most people were following this kind of attention
17 to detail and explanatory process where people can
18 actually walk through the entire process, you
19 know, step by step. So I commend you for that and
20 thank you for your testimony.

21 FATHER POLLARD: Thank you, Dr. Arnold.

22 Dr. Arnold, I'd like to just comment that
23 in our system of numbering for each of our
24 cemeteries, we place a metal tag so that the

1 number of the burial is -- we used to use paper
2 realizing that you end up with it disappearing in
3 time. And so now we have metallic tags both for
4 full body burial and for cremated remains.

5 DR. ARNOLD: Yes. That was one of the things,
6 is that this monitoring system -- you know, the
7 reason why I was considering it is because I was
8 thinking that we track individuals. We are
9 starting to using it for humans now, people who
10 have Alzheimer's disease or people who are infirm,
11 but we also have it, you know, for our pets and
12 that kind of thing.

13 So this would be a fixed situation where
14 the person -- you're not tracking them across the
15 state to find out what their mobility is, but this
16 chip could actually provide information that can
17 verify the presence of the actual burial
18 instrument, the -- and then also the person
19 themselves.

20 FATHER POLLARD: Doctor, I'm very familiar. I
21 serve on the Vitality Management Committee for the
22 HSCC, and we have talked about that in case of a
23 pandemic and a surge in deaths, how would we
24 identify the bodies and such? And so, I just

1 commend you for following through on that very
2 wisely.

3 HONORABLE HOLMES: Thank you.

4 Briefly, Representative Davis.

5 REPRESENTATIVE DAVIS: Thank you very much.

6 When I heard Dr. Arnold, I said, yeah
7 he's been to Iraq.

8 I appreciate your comments. It's very
9 high technology, and we must learn to use it in
10 government, so thank you for that.

11 Is this form used currently?

12 FATHER POLLARD: No, it is not.

13 REPRESENTATIVE DAVIS: But it should be
14 because it does have all of the information that
15 we're talking about we need. It's got the name of
16 the cemetery, it's got the plot, it's got the name
17 of the funeral owner. I mean, all the
18 information. And it should be filed, in my
19 opinion, just like you do a birth certificate.
20 It's a death certificate, right?

21 So I guess -- I don't know why they
22 stopped keeping it, but because we have access to
23 computers, this form should be reinstituted in my
24 opinion.

1 But I really appreciate you bringing this
2 forward. Your information is very concise,
3 transparent, and I know people really appreciate
4 that. And if I were Catholic, I'd get buried in
5 one of your cemeteries.

6 FATHER POLLARD: Thank you, Representative.
7 Thank you, Representative. You're welcome to come
8 anyway.

9 REPRESENTATIVE DAVIS: Okay. Thank you.

10 MR. McNARY: Father Pollard and Mr. Gilligan,
11 my name is William McNary, Citizen Action
12 Illinois. Let me thank you, first of all, for the
13 comfort and the peace of mind that you do offer
14 families in their time of need.

15 And though our purview in this committee
16 is regulation, one of the concerns that keeps
17 coming up over and over again as we've heard
18 testimony is to begin to restore Burr Oak as a
19 place of beauty where people can visit their loved
20 ones and honor their resting places. So thank you
21 in advance for the efforts on -- that
22 Mr. Szabelski is going to be doing in that behalf.

23 But as to regulation, my question is: Is
24 there any public policy justification for allowing

1 religious cemeteries and not-for-profit cemeteries
2 to not be regulated?

3 FATHER POLLARD: It's simply has not been done
4 in the State of Illinois. And yet I wanted to
5 assure you that the exemption in Illinois goes for
6 religious cemeteries, fraternal cemeteries, and
7 municipal cemeteries. That's how the exemption
8 goes. It has been that way.

9 Our efforts, as I've said and we have
10 shown it in transparency, is that we follow the
11 guidelines that are put there. Sometimes we go
12 beyond the guideline. We go beyond guidelines as
13 you would do for the maintenance of the cemetery.
14 I mean, we're -- we've expended a lot of money to
15 cut our grass 26 times this cutting season.
16 Mr. Szabelski is trying to cut the grass at Burr
17 Oak. Without the release of funds, he doesn't
18 even have the money to buy gas for the lawn
19 mowers.

20 MR. McNARY: I surely didn't ask you that to
21 put you on the spot or to put your cemeteries in a
22 bad light. It's been said that most of the
23 cemeteries that are in the city generally are
24 operating above board. So you only have

1 regulations and try to have regulations for those
2 ones that are not.

3 So if you are following most of the
4 guidelines under regulation, is there any public
5 policy justification why the cemeteries you just
6 mentioned should be excluded from regulation.

7 FATHER POLLARD: I would venture that the
8 reason I would bring forward is that as part of
9 our mission in ministry, we have tried to make
10 burial affordable to the people of our faith
11 communities. And so I would be hesitant and
12 cautious if we were going to add more to the
13 burial costs. We have tried -- if you do some
14 comparisons of our cost items with other
15 non-sectarian cemeteries, privately owned, you'll
16 see that our pricing is below them and we try to
17 maintain that, and I still have a workforce of 106
18 union employees in the field and 114
19 administrative staff. So we take it on as a
20 mission and ministry, and I don't want to load
21 more costs and fees onto the public.

22 HONORABLE HOLMES: Thank you.

23 Mr. Carter.

24 MR. CARTER: Thank you very much for coming,

1 Bishop.

2 You state that you do not use this form
3 any longer.

4 FATHER POLLARD: The Illinois Department of
5 Public Health does not require that anymore.

6 MR. CARTER: But you receive some type of
7 burial permit.

8 FATHER POLLARD: Yes.

9 MR. CARTER: So we do receive that. It's just
10 that it's not required by the cemetery to send a
11 copy to the department.

12 FATHER POLLARD: The bottom section of that is
13 no longer required where we fill in all the
14 information. But we -- in all of our Catholic
15 cemeteries in the State of Illinois, we're always
16 giving back to the family. We give them an
17 easement. It always states the grave location,
18 the burial location, the date of burial. All of
19 the costs, all of their rights and such are in
20 there.

21 We also give them a receipt on that day
22 of the burial that's handed to the funeral
23 director who puts it in the package to the family.
24 We actually -- we also have a church certificate

1 that comes with the remains to us from the parish
2 church where they prayed and where they did the
3 funeral liturgy before they come to the cemetery.
4 So there's a continuous flow of information back
5 to the individual family, either directly to the
6 family, which may be the case in the case of
7 cremated remains sent to us, or through the
8 funeral director.

9 MR. CARTER: Do you do double-depth burial?

10 FATHER POLLARD: Do we? Yes, we do. A
11 double-depth burial for us would take place where
12 the ground would allow.

13 So for instance, I'm going to be buried
14 at St. Joseph's cemetery. That cemetery is almost
15 completely sold. There's maybe about 20 graves
16 left. My grandparents are there, my father, and
17 my mother. I had my mother buried at a lower
18 level so I could be buried on top. Otherwise,
19 there would be no more room for another burial.

20 Now, that's only because that particular
21 ground space will allow it. We have a cemetery at
22 Holy Cross in Calumet City which has a lot of
23 sandy soil, and as you try to dig deeper, you --
24 the soil -- it collapses. And so it's rare that

1 we do a double-depth burial there. We do these as
2 a convenience for a family that would like to put
3 more than one burial in the grave space, and we
4 never go beyond two.

5 MR. CARTER: Thank you.

6 HONORABLE HOLMES: Thank you very much.

7 Senator Jones.

8 SENATOR JONES: Thank you, Madam Chair. Just
9 a few questions.

10 First off, I would like to commend you
11 guys for the work that you do at Catholic
12 Charities and these cemeteries. I am Catholic
13 myself, and I buried my mom seven years ago at
14 Mount Olivet, and I see us listed on this brochure
15 that you guys have.

16 One question I know a lot of the
17 committee members have been asking in a lot of
18 these meetings we've been having is has a cemetery
19 in Illinois or either any cemetery under the
20 Catholic Charities ever fills up? How do you know
21 when a cemetery is full?

22 FATHER POLLARD: Well, there's two situations.
23 We have cemeteries where they are sold out. We've
24 sold all the graves and crypts available. Such a

1 cemetery would be Saint Boniface on North Clark
2 Street.

3 SENATOR JONES: Okay.

4 FATHER POLLARD: All right. But we still have
5 hundreds of burials each year. St. Joseph's,
6 which is almost completely sold out. It has a
7 couple of cremated remains in it, a couple of
8 crypts and graves left. And that cemetery still
9 has about a thousand burials a year in it.

10 So there's the time at which you sell out
11 all of the grave space, and then there's the time
12 at which you've completed all the burials. Now
13 since we're into a large amount of cremation
14 occurring -- so for instance, a family -- I had a
15 funeral in June where they said to me, mom is the
16 only one who wanted to be buried in a casket
17 full-body burial. We'd all like to be cremated.
18 So I said yes. We'll take care of that. We put
19 mother at the lower level, and we made
20 arrangements for the other five children to be
21 buried on top of her. So those kinds of
22 removal of the casket down and other burials,
23 these can continue for many years to come. And
24 that's what -- even though the cemetery is closed

1 for sales, it is open for burial.

2 SENATOR JONES: Okay.

3 HONORABLE HOLMES: Thank you.

4 Are you done with your questions?

5 Okay. Representative Brady, do you have
6 questions for him? Do you have one more?

7 REPRESENTATIVE DAVIS: Thank you, Madam
8 Chairman. Thank you very much.

9 Do you ever move bodies, or is there a
10 time when their term is up and that body --
11 someone else can be buried there because they had
12 a 50-year term or a 25-year term?

13 FATHER POLLARD: Let me separate your
14 question. Do we ever move bodies? Yes. We -- a
15 family -- for instance, we build a mausoleum, and
16 a family comes and says, we'd like to move mom
17 from this grave space to the mausoleum, and we'd
18 like this above-ground burial. And so we have --
19 everyone in the family has to sign off on this.

20 Sometimes we have issues where there
21 needs to be a grave opened. And if it's not clear
22 from the family, we request a a court order. And
23 that happens often. Our most recent famous case
24 was Kathleen Savio being exhumed at Queen of

1 Heaven Cemetery. And so we had a court order; we
2 had to comply. So that's a removal, a movement of
3 the body.

4 What you're starting to talk about is
5 what is termed a "term grave." Term graves came
6 to us in the United States from Europe. It's very
7 common in places like the Netherlands and Germany
8 and Poland where they would have a grave that was
9 for 20, 25, or 30 years. They had very little
10 land space. It was very common practice.

11 Some of the Polish community that
12 immigrated to the United States, some of the
13 German community, in the cemeteries we did have
14 term graves. The last of our term graves ceased
15 to exist in 1968. For our term graves, they had
16 them for a term of 25 years, and during that time
17 they could buy the grave, and then they had the
18 grave in perpetuity. And so many of the people
19 did do that.

20 It was so different for our American
21 experience of this, that we never turned over the
22 other term graves. In other words, we didn't
23 perform another burial on top of them. We simply
24 let them stay there. We just thought that was the

1 more prudent thing to do.

2 Now, some cemeteries have used the term,
3 "term gave" as they have sold a grave for less
4 money to a family that could not afford it. So a
5 situation at Burr Oak where a grave would have
6 been \$85, and that was meant to be for a term, and
7 that was sort of a gentleman's understanding that
8 it was for a term. So it wasn't very -- sometimes
9 it wasn't documented. It was just understood.

10 And usually what happened in many instances, in
11 time families could afford to pay the rest of the
12 fee for the grave. And they would, and then they
13 would be able to put a marker on that grave.

14 I think it was stated earlier one of the
15 things we tried to do with the term grave or with
16 a charity burial -- and that's how we term it, a
17 public aid that comes to us, and we provide
18 between 400 and 500 charity burials every year
19 because that's our mission as the Catholic
20 community. Then we try to treat all the burials
21 the same. And so we spread our charity burials
22 out throughout our cemetery so no one knows where
23 they are. It's not this section or over by a
24 fence. It's spread throughout the rest of the

1 cemetery so that we can bury them with dignity.

2 REPRESENTATIVE DAVIS: Do you think the State
3 of Illinois should continue to allow term burials?

4 FATHER POLLARD: I think that's one of the
5 questions that should be asked, and we need to
6 explore it a little bit more with the different
7 localities in the sense of why did they have them.
8 And if it was there to help the poor, is that of
9 value? I can't answer that for all the different
10 locales.

11 REPRESENTATIVE DAVIS: Thank you very much.
12 Thank you, Father.

13 FATHER POLLARD: Thank you.

14 HONORABLE HOLMES: Thank you very much.

15 Mr. Sulamoyo.

16 MR. SULAMOYO: Reverend, Dalitso Sulamoyo with
17 the Community Action Association.

18 Based on the price ranges that you have,
19 does this distinguish where people are buried
20 depending on price, or...

21 FATHER POLLARD: Well, yes, it does in that
22 you are selecting a type or a location of a grave.
23 So the -- sometimes we'll put up a statue. So we
24 have a statue of Saint Francis feeding the

1 animals. And people want to be buried next to the
2 statue. Those graves will be at a much higher
3 level.

4 A grave that's under a tree right by the
5 roadway would be a lesser-price grave. So that it
6 depends on location. People choose the grave by
7 the location. We don't just have the next grave
8 available for people.

9 They also would choose a grave whether it
10 would be a regular, simple, single grave. It
11 could be a monument grave where they have to
12 purchase at least four of them and they're going
13 to erect an upright granite monument. Or we have
14 packages to make the purchase much more realistic.

15 And we work with our funeral directors.
16 There are over 500 independent funeral directors
17 in Lake and Cook Counties who are wonderful to
18 work with dealing with all families. And we have
19 a package where we sell the grave, the grave box,
20 the concrete container, the opening and closing
21 fee, and the flush marker. And that package --
22 the funeral directors even help us sell them
23 because they realize we're trying to convey all of
24 these services to the public at a very reasonable

1 price.

2 MR. SULAMOYO: What about in terms of
3 maintenance? Does -- do all areas in your
4 cemeteries receive the same --

5 FATHER POLLARD: The same kind of maintenance.
6 We're out there, as I said, 26 times a year
7 cutting the grass. Then we have to trim around
8 the markers and monuments.

9 DR. ARNOLD: One quick question. This is
10 Dr. Arnold from the Illinois Department of Public
11 Health.

12 But it was really related to a couple of
13 things. Does the industry make projections on
14 land use? Because now we have an increasing
15 population of people that have to be serviced.
16 And I can see conceivably over some period of time
17 where our entire land mass will be sort of
18 covered. You know, is there something that they
19 are looking at to figure out how to deal with
20 that?

21 And then also the second question is:
22 When you have a term -- a term arrangement, when
23 those remains are removed from the ground, how are
24 they handled? Are they cremated, or what is the

1 process that they go through? Are they treated
2 respectfully, or how do you deal with this?

3 FATHER POLLARD: First question is just to
4 simply say that in the Arch Diocese of Chicago,
5 we're very conscious of land use. We have
6 3,000 acres in land in these two counties, and our
7 grave space is three feet by eight feet. And when
8 we dig with a backhoe our digger can actually
9 scrape the concrete box of the next burial. We
10 try to be very conscientious in using the land
11 space. I know that the other Catholic cemeteries
12 throughout the state they may vary a few inches,
13 so it might be 40 inches by eight feet as we go
14 down state.

15 Just as a note for the record, all of the
16 Veterans Administration cemeteries, so the Abraham
17 Lincoln Cemetery, Arlington National, by statute
18 their graves are five feet by ten feet, which,
19 unless you have an exceptionally large casket, you
20 do not need that kind of land space. So in a
21 sense, we're being very prudent in our use of
22 land.

23 The second is, in a term grave, we have
24 not used or touched a term grave since the 1960s,

1 so I could not comment honestly on what is being
2 done in any other cemetery that would still have a
3 term grave. I would suspect they would -- if the
4 grave was simply buried, in other words, without a
5 concrete box, and it was a wooden casket and there
6 was any amount of time, there would have been
7 biodegradation, and there would be very little
8 left in the grave, so another burial could go on
9 top of it quite easily.

10 HONORABLE HOLMES: Thank you so much. I
11 really appreciate it. Thank you for your patience
12 and thank you for sticking around. I know that we
13 are extremely late, but we really appreciate it.

14 I'm gonna call Mr. Lapin and Vickie Hand.
15 I am going to limit you to exactly five minutes
16 because we have heard your testimony before. If
17 there is anything that you think is germane for us
18 to hear, please go straight to that point. And
19 then unless there is something that you raise that
20 is totally new, I'm not going to entertain
21 questions. It's almost 5:30.

22 MS. HAND: This is an operations manual we're
23 gonna give to you for you to study and use in
24 whatever vein that you'd like to. Number 1.

1 Term burials, No. 2. Never heard of any
2 cemetery in Illinois picking up anybody's remains
3 and throwing them in a dump, and that's what
4 happened at Burr Oak. A term burial might be 20
5 years, but that is probably with the right to
6 rebury over. What's happened is Burr Oak
7 personnel created crimes.

8 Standard of care. It's been mentioned
9 here that we fought a standard of care. I have to
10 explain. There are cemeteries that have maybe
11 \$5,000 in a care fund and do no interments. Other
12 cemeteries have a million dollars. How can you
13 have a standard for someone that has a million
14 dollars in trust versus one with \$5,000?

15 And let me see. Never seen a bone in my
16 cemetery.

17 Harvey.

18 MR. McNARY: I'm sorry, Madam Chair, would you
19 tell me again the -- I know Mr. Lapin but the --
20 this is a new witness --

21 MR. LAPIN: Vickie Hand is the Treasurer of
22 the Illinois Cemetery and Funeral Home
23 Association, and she's an officer and has been
24 president, and she operates one of the best

1 cemeteries in the state.

2 MR. McNARY: Thank you.

3 MR. LAPIN: And I appreciate the opportunity.

4 I recognize the time limit, and I'm trying to save
5 my marriage also.

6 HONORABLE HOLMES: I think we all are.

7 MR. LAPIN: I wanted to clarify -- yeah. I
8 agree.

9 I wanted to clarify the record on a
10 couple of points, and I appreciate that Father
11 Pollard was here because he covered some things
12 that we were going to cover.

13 Somebody asked -- one of the witnesses --
14 I listened to most of the hearings, and somebody
15 asked what the basis was for the easement of an
16 interment right, and I just wanted to tell you
17 that it's in the Care Fund Law. It defines
18 interment right, entombment right. That
19 definition came from the Supreme Court of Illinois
20 in the case of Brown versus Hill that was issued
21 in 1918. So there's a long history. The Courts
22 brought that term in by consulting with other
23 jurisdictions, and so that's where it came from.

24 I was going to talk about the scope of

1 the present laws of enforcement, but I think you
2 had an adequate description today, and I thank the
3 panel for doing that.

4 Real property taxation of the cemeteries
5 is covered in the Constitution of Illinois. It
6 says they are -- burial grounds are exempt from
7 taxation. The legislature passed a section that
8 said property used for the general purposes,
9 general cemetery purposes is exempt. It covers
10 all cemeteries.

11 I would like to submit some written
12 material covering some other questions. Should
13 there be a Bill of Rights for cemetery consumers?
14 Why are cemeteries limited to flat memorials?
15 What happens when a cemetery fills up? We will
16 submit some written testimony and proceed on that
17 basis.

18 I would like to say that the association
19 is also going to provide you tonight, so that you
20 can read it over the weekend, this is our Illinois
21 Cemetery and Funeral Home Association outline of
22 the Illinois law. It has our recommendations,
23 which you requested, for legislative
24 clarification.

1 We strongly believe that what we are
2 recommending is -- should apply to all cemeteries,
3 and the reason is we are covering the at-need
4 cemetery sale. We are recommending that consumers
5 enter into a contract with the cemetery for an
6 at-need purchase which will have basic disclosures
7 of the information you have been discussing.

8 We have in here free legal work. We put
9 together a form for that purpose that can be used
10 by any cemetery in the state so that it is not
11 going to be an onerous type of situation, and it
12 will provide to the members -- we also feel that
13 there should be a cemetery consumer Bill of
14 Rights, and we have proposed something in here,
15 and we have proposed some other things with regard
16 to legislation, which you can review at this
17 point.

18 And I guess just to simplify, of course,
19 I do want to mention one thing -- actually two
20 things.

21 The Comptroller misstated something. The
22 at-need sale for a cemetery that's under care, you
23 have to put money in the care fund. It doesn't
24 just cover pre-need. So -- and 15 percent of a

1 lot sale has to go in the care fund.

2 The other thing I want to say is the
3 Comptroller has a policy of not talking to us and
4 he stated it. The result of that is that he
5 introduces legislation in what I call the dark of
6 night. We don't see it until the last minute.

7 Senator Jones is here, and he knows that
8 we were accidentally down in Springfield, and we
9 got this massive bill that we stayed up till
10 2:00 o'clock in the morning writing our responses.
11 And that's the problem where we end up being an
12 opponent is because we just got it. And sometimes
13 we can't live with these requirements. We
14 adequately explained why to the senate staff
15 people and Senator Jones and several other
16 senators, and they didn't have any problem
17 understanding what our concerns were. And after
18 we got our concerns addressed, we then indicated
19 we would be in favor of legislation of that kind.

20 So I just wanted to explain that's the
21 situation, and I don't think we're -- the industry
22 doesn't really fight everything. We'd just like
23 to see it, see it before it's passed and work on
24 it.

1 MS. HAND: One more thing if I may.

2 HONORABLE HOLMES: Sure.

3 MS. HAND: Powers and duties of cemetery
4 authorities, Illinois Cemetery Care Act. Powers
5 and duties of cemetery authorities. Cemetery
6 property maintained by cemetery care fund. With
7 respect to cemetery property maintained by
8 cemetery care fund, a cemetery authority shall be
9 responsible for the performance of the care and
10 maintenance of the cemetery property it owns.
11 That's in the opening part of the law.

12 MR. LAPIN: And the definition of cemetery
13 authority is all cemeteries. All cemeteries are
14 cemetery authorities. It defines even persons and
15 partnerships. So every cemetery authority is
16 covered by that requirement, and that's right in
17 the Care Act.

18 HONORABLE HOLMES: Thank you.

19 I'm going to allow one question from
20 Representative Brady and then --

21 REPRESENTATIVE DAVIS: May I ask one, please?

22 HONORABLE HOLMES: I'll give you the one.

23 REPRESENTATIVE BRADY: In the spirit of
24 compromise, I won't ask a question. I'll make a

1 statement, and Representative Davis can have my
2 question. How's that?

3 HONORABLE HOLMES: Are you sure you're not a
4 lawyer?

5 REPRESENTATIVE BRADY: Very briefly. Thank
6 you very much.

7 I just want to say that for this
8 committee's purpose you've heard a lot from my
9 frustration regarding some things. But I'll just
10 simply say, Mr. Lapin, your testimony about you
11 don't get things legislative-wise and
12 Comptroller's action eleventh hour, et cetera, et
13 cetera. You got my legislation. You had ample
14 time to look at it. There was a concern -- and
15 I'll say for the record again, I'm so glad that
16 you're here now all of a sudden wanting to
17 cooperate with everything after your dues-paying
18 members, Burr Oak Cemetery, has had its problems.

19 But I would just also for the record make
20 sure that it's known that the manner in which your
21 lobbying individuals conducted themselves in
22 Springfield over my legislation, I personally
23 resent and will continue to resent. And I want
24 this committee to know what you're gonna hand out

1 and what you're gonna present, take it with a
2 grain of salt. Thank you.

3 HONORABLE HOLMES: Representative Davis, the
4 question.

5 REPRESENTATIVE DAVIS: Well, I don't have a
6 great of anything except to say I hope that what
7 this task force puts forward will not be
8 vigorously fought for any personal reasons. There
9 was an egregious act in the community that I
10 represent, and it can be repeated if we don't do
11 something to stop it.

12 Now, we know that laws for the cemeteries
13 were made years ago and things have changed,
14 populations have grown. And we need standards.

15 Now I'm gonna say this. I have driven
16 around some Catholic cemeteries, and they seemed
17 to be very well kept. But I can't say the same
18 for those in other areas or who don't belong to
19 that religion. I hope, Mr. Lapin -- I've talked
20 with you and I respect your knowledge. But this
21 task force is serious about making some changes.
22 Please don't try to stand in our way. Thank you.

23 MR. LAPIN: Let me respond just quickly to
24 that if I may.

1 HONORABLE HOLMES: Sure, sure.

2 MR. LAPIN: We put together our
3 recommendations after they were approved by our
4 Board of Directors. So the recommendations you
5 have, have been approved by our Association Board
6 of Directors, and we're going to stand behind them
7 for that reason.

8 And we agree with you 100 percent about
9 the Burr Oak situation done by -- and I have to
10 use these alleged criminals because they have not
11 been found guilty yet; that these acts we agree
12 100 percent should be -- they are illegal, and we
13 agree the penalties should be increased. And if
14 you would let the four of them come to our next
15 meeting, we would take care of the problem.

16 HONORABLE HOLMES: Thank you very, very much,
17 Mr. Lapin. We really appreciate it.

18 The commission will not hear any other
19 witnesses. It is 5:30. We would ask that any
20 members of the public who have anything to say
21 please do so on our web site.

22 I do want to read a responsive letter
23 that I just received from Comptroller Hynes
24 regarding testimony given today from Ms. Sonja

1 Washington.

2 The letter states, "September 10, 2009.

3 The Illinois Office of the Comptroller has never

4 and would never hang up on any citizen in

5 Illinois. Moreover, we have met with Sonja

6 Washington and her group twice, in November 2004

7 and again in November 2006. These meetings led to

8 our introduction of Senate Bill 482 in the spring

9 of 2005. This bill requires cemeteries to provide

10 contracts for at-need consumers. Signed, Percy

11 Lucina, Director of Cemetery Care and Burial

12 Trust."

13 Just he asked that we read this for the

14 record since he had to leave and was not able to

15 testify in response. We will -- I will ask that

16 the Secretary make certain that this is uploaded

17 on to our web site.

18 We will continue to work on the draft of

19 the report. The final must be completed by

20 tomorrow, 5:00 p.m. so that we can do the

21 appropriate copying of the documents. So I would

22 ask that any task force members who have anything

23 to bring to my attention for inclusion in the

24 draft report, please do so with all due speed so

1 that we can get this to the copier, to the
2 printer, so that we can have our report prepared
3 for our Tuesday meeting.

4 Again, I remind you that the meeting is
5 at 12:30 here in this building. However, there is
6 a possibility that it could be moved up to 10:30.
7 We will post the notice, and I will let you know
8 if it does get moved up. But be aware that there
9 is that possibility for the time change. Okay.

10 REPRESENTATIVE BRADY: Madam Chair?

11 HONORABLE HOLMES: Yes, sir.

12 REPRESENTATIVE BRADY: Quick question. If I
13 understood correctly, we're going to see a draft
14 report and then have the ability to interject
15 suggestions, changes, input prior to the final
16 draft, or we're just gonna see the draft and call
17 you up if we have any ideas?

18 HONORABLE HOLMES: That one.

19 REPRESENTATIVE BRADY: Okay. So you want me
20 to call you up before I even see it then.

21 HONORABLE HOLMES: That's correct. Thank you.

22 (Whereupon, the meeting concluded at
23 5:31 p.m. on August 10, 2009)

24

1 STATE OF ILLINOIS)

) SS:

2 COUNTY OF C O O K)

3

4 JANYCE W. BOOTH, being first duly sworn,
5 deposes and says that she is a Certified Shorthand
6 Reporter in Cook County, Illinois, and reporting
7 proceedings in the Courts in said County;

8 That she reported in shorthand and
9 thereafter transcribed the foregoing proceedings;

10 That the within and foregoing transcript
11 is true, accurate and complete and contains all
12 the evidence which was received and the
13 proceedings had upon the within cause.

14

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JANYCE W. BOOTH, CSR, RMR, CRR

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CSR No. 84-2097

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